

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Parts 200, 230, 239, 240, 249, 270, and 274**

**[Release Nos. 33-10506; 34-83380; IC-33115; File No. S7-08-15]**

**RIN 3235-AL42**

**Optional Internet Availability of Investment Company Shareholder Reports**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission is adopting new rule 30e-3 under the Investment Company Act of 1940. Subject to conditions, new rule 30e-3 will provide certain registered investment companies with an optional method to satisfy their obligations to transmit shareholder reports by making such reports and other materials accessible at a website address specified in a notice to investors. We are also adopting amendments to rule 498 under the Securities Act of 1933 and our fund registration forms to require that during a certain transition period funds that choose to implement the new delivery method for shareholder reports provide prominent disclosures in prospectuses and certain other shareholder documents that will notify investors of the upcoming change in transmission format for a period of two years. New rule 30e-3 and the amendments to rule 498 and our registration forms address the fact that some investors may wish to receive shareholder reports in paper. As such, the new rule incorporates a set of protections so that investors who prefer to receive reports in paper will continue to receive them in that format. These protections include, among others, a minimum length phase-in period that ends no earlier than December 31, 2020 and notice requirements that must be implemented and followed beginning January 1, 2019, or the date shares are first

publicly offered, if a registered investment company would want to use new rule 30e-3 as of January 1, 2021. The rule requires that a paper notice be sent to an investor each time a current shareholder report is accessible online. The notice must include instructions for how an investor can elect—at any time—to receive all future reports in paper, or request to receive particular reports in paper on an *ad hoc* basis. We are also adopting related amendments to certain other rules and forms. This optional method is intended to modernize the manner in which periodic information is made available to investors, which we believe will improve investors’ experience while reducing expenses associated with printing and mailing shareholder reports that are borne by investment companies and ultimately their investors.

**DATES:** This rule is effective January 1, 2019, except:

- Amendatory Instructions 5 and 25 to 17 CFR 230.498 and Form N-CSR (referenced in 17 CFR 249.331 and 274.128), which are effective January 1, 2021; and
- Amendatory Instructions 6, 13, 16, 18, 20, 22, and 24 to 17 CFR 230.498, 17 CFR 270.30e-3, Form N-1A (referenced in 17 CFR 239.15A and 274.11A), Form N-2 (referenced in 17 CFR 239.14 and 274.11a-1), Form N-3 (referenced in 17 CFR 239.17a and 274.11b), Form N-4 (referenced in 17 CFR 239.17b and 274.11c), and Form N-6 (referenced in 17 CFR 239.17c and 274.11d), which are effective January 1, 2022.

**FOR FURTHER INFORMATION CONTACT:** J. Matthew DeLesDernier and John Lee, Senior Counsels; or Michael C. Pawluk, Senior Special Counsel, at (202) 551-6792, Investment Company Regulation Office, Division of Investment

Management, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-8549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission (the “Commission”) is adopting: new rule 30e-3<sup>1</sup> under the Investment Company Act of 1940 (“Investment Company Act”);<sup>2</sup> amendments to Forms N-1A,<sup>3</sup> N-2,<sup>4</sup> N-3,<sup>5</sup> N-4,<sup>6</sup> and N-6<sup>7</sup> under the Investment Company Act and the Securities Act of 1933 (“Securities Act”);<sup>8</sup> amendments to Form N-CSR<sup>9</sup> under the Investment Company Act and the Securities Exchange Act of 1934 (“Exchange Act”);<sup>10</sup> amendments to rule 498<sup>11</sup> under the Securities Act; amendments to rule 14a-16<sup>12</sup> under the Exchange Act; and amendments to Section 800 of 17 CFR Part 200.<sup>13</sup>

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<sup>1</sup> 17 CFR 270.30e-3.

<sup>2</sup> 15 U.S.C. 80a-1 *et seq.* Unless otherwise noted, all references to statutory sections are to the Investment Company Act, and all references to rules under the Investment Company Act are to Title 17, Part 270 of the Code of Federal Regulations [17 CFR part 270].

<sup>3</sup> 17 CFR 239.15A and 17 CFR 274.11A.

<sup>4</sup> 17 CFR 239.14 and 17 CFR 274.11a-1.

<sup>5</sup> 17 CFR 239.17a and 17 CFR 274.11b.

<sup>6</sup> 17 CFR 239.17b and 17 CFR 274.11c.

<sup>7</sup> 17 CFR 239.17c and 17 CFR 274.11d.

<sup>8</sup> 15 U.S.C. 77a *et seq.*

<sup>9</sup> 17 CFR 249.331 and 17 CFR 274.128.

<sup>10</sup> 15 U.S.C. 78a *et seq.*

<sup>11</sup> 17 CFR 230.498.

<sup>12</sup> 17 CFR 240.14a-16.

<sup>13</sup> 17 CFR 200.800.

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## I. INTRODUCTION

Today we are adopting rule 30e-3 under the Investment Company Act,<sup>14</sup> a rule that provides registered management companies and any separate series thereof and certain registered unit investment trusts (“UITs”)<sup>15</sup> with an optional method to satisfy requirements to transmit shareholder reports by posting those reports online if they meet certain conditions.<sup>16</sup> In order to rely on the rule, funds will be required to make their reports and other required materials publicly accessible, free of charge, at a website address specified in a notice to shareholders,<sup>17</sup> and meet certain other conditions specified in the rule. In recognition of the fact that some investors may wish to receive their shareholder reports in paper, the rule incorporates a set of protections designed to preserve the ability of these investors to do so. Thus, the rule accommodates the

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<sup>14</sup> Rule 30e-3 was proposed in May 2015 as part of the Commission’s broader Investment Company Reporting Modernization proposal. *See* Investment Company Reporting Modernization, Investment Company Act Release No. 31610 (May 20, 2015) [80 FR 33590 (June 12, 2015)] (“Proposing Release”). As part of the proposal, we also proposed new forms (Form N-CEN and Form N-PORT), amendments to Regulation S-X, and other amendments to modernize the reporting and disclosure of information by registered investment companies. In October 2016, the Commission adopted final rules related to the proposal, with the exception of rule 30e-3. *See* Investment Company Reporting Modernization, Investment Company Act Release No. 32314 (Oct. 13, 2016) [81 FR 81870 (Nov. 18, 2016)] (“Reporting Modernization Adopting Release”).

<sup>15</sup> Unless the context otherwise requires, for ease of reference, throughout this release “fund” or “funds,” individually or collectively, refers to registered management companies (and any separate series thereof) and UITs.

<sup>16</sup> The final rule applies to reports required by rule 30e-1 (reports of registered management companies) and reports required by rule 30e-2 (reports to shareholders of registered UITs, substantially all of the assets of which consist of securities issued by a management company). *See* rule 30e-3(a); rule 30e-1(a); rule 30e-2(a).

<sup>17</sup> Interests in securities issued by insurance company separate accounts organized as UITs are typically referred to as accumulation units, not shares. For convenience, however, in this release owners of interests in securities issued by UITs, whether the issuer is a separate account or otherwise, are referred to as shareholders, and accumulation units are referred to as shares.

preferences of all investors regarding their preferred means of communication—whether they wish to receive reports in paper or electronically, or simply to be notified that the reports are available online. To that end, we are also adopting an extended transition period with staged effective dates, and the earliest that a fund could rely on the rule to satisfy shareholder report transmittal requirements is January 1, 2021.

This new option is intended to modernize the manner in which funds deliver periodic information to investors. We believe it will improve investors’ ability to access and use this information (for example, by providing investors with access to at least a full year of complete portfolio holdings information in one location), while reducing expenses associated with printing and mailing that are borne by funds, and ultimately, by their investors. The rule draws on the Commission’s experience of more than twenty years with use of the internet as a medium to provide documents and other information to investors.<sup>18</sup> The rule also draws on the Commission’s investor testing efforts and other

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<sup>18</sup> See, e.g., Use of Electronic Media for Delivery Purposes, Investment Company Act Release No. 21399 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)] (“1995 Release”) (providing Commission views on the use of electronic media to deliver information to investors, with a focus on electronic delivery of prospectuses, annual reports, and proxy solicitation materials); Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information, Investment Company Act Release No. 21945 (May 9, 1996) [61 FR 24644 (May 15, 1996)] (“1996 Release”) (providing Commission views on electronic delivery of required information by broker-dealers, transfer agents, and investment advisers); Use of Electronic Media, Investment Company Act Release No. 24426 (Apr. 28, 2000) [65 FR 25843 (May 4, 2000)] (“2000 Release”) (providing updated interpretive guidance on the use of electronic media to deliver documents on matters such as telephonic and global consent, issuer liability for website content, and legal principles that should be considered in conducting online offerings).

See also Securities Offering Reform, Securities Act Release No. 8591 (July 19, 2005) [70 FR 44722 (Aug. 3, 2005)] (“Securities Offering Reform”) (adopting rule 172 under the Securities Act providing an “access equals delivery” framework under which issuers and intermediaries can satisfy their final prospectus delivery obligations); Shareholder Choice Regarding Proxy Materials, Investment Company Act Release No. 27911 (July 26, 2007) [72 FR 42222 (Aug. 1, 2007)] (“Shareholder Choice Regarding Proxy Materials Release”) (adopting rule

empirical research concerning investors' preferences about methods of delivery for required disclosure documents and use of the internet for financial and other purposes generally.<sup>19</sup>

We continue to search for better ways of providing investors with the disclosure that they need to evaluate funds in which they are considering investing or currently hold

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amendments requiring issuers to post their proxy materials on a specified website and provide shareholders with a notice of internet availability of the materials); Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Investment Company Act Release No. 28584 (Jan. 13, 2009) [74 FR 4546 (Jan. 26, 2009)] ("Summary Prospectus Release") (permitting the use of a summary prospectus by registered open-end management investment companies); Interactive Data for Mutual Fund Risk/Return Summary, Investment Company Act Release No. 28617 (Feb. 11, 2009) [74 FR 7748 (Feb. 19, 2009)] ("XBRL Release") (requiring open-end funds to provide the risk/return section of their prospectus in interactive data format using eXtensible Business Reporting Language ("XBRL")); Amendments to Rules Requiring Internet Availability of Proxy Materials, Securities Act Release No. 9073 (Feb. 22, 2010) [75 FR 9073 (Feb. 26, 2010)] ("Internet Availability of Proxy Materials Release") (providing additional flexibility regarding the format of the notice of internet availability of proxy materials); Reporting Modernization Adopting Release, *supra* note 14; Inline XBRL Filing of Tagged Data, Securities Act Release No. 10323 (Mar. 1, 2017) [82 FR 14282 (Mar. 17, 2017)] ("Inline XBRL Release") (proposing the use of the Inline XBRL format for the submission of operating company financial statement information and mutual fund risk/return summaries); Exhibit Hyperlinks and HTML Format, Securities Act Release No. 10322 (Mar. 1, 2017) [82 FR 14130 (Mar. 17, 2017)] ("Exhibit Hyperlinks and HTML Format Release") (requiring exhibit hyperlinks and filings in HTML format); FAST Act Modernization and Simplification of Regulation S-K, Securities Act Release No. 10425 (Oct. 11, 2017) [82 FR 50988 (Nov. 2, 2017)] ("FAST Act Regulation S-K Release") (proposing amendments to modernize and simplify certain disclosure requirements in Regulation S-K, and related rules and forms).

<sup>19</sup> For example, in 2011, the Commission engaged a consultant to conduct investor testing regarding shareholder reports. The consultant's report concerning that testing ("Investor Testing of Mutual Fund Shareholder Reports") is in the comment file for this rule (*available at* [www.sec.gov/comments/s7-08-15/s70815.shtml](http://www.sec.gov/comments/s7-08-15/s70815.shtml)). Separately, Commission staff prepared a study of investor financial literacy pursuant to Section 917 of the Dodd-Frank Act. Materials relating to this study, including the staff's report, are available at <http://www.investor.gov/publications-research-studies/sec-research>.

In addition, in 2007, the Commission engaged a consultant to conduct focus group interviews and a telephone survey concerning investors' views and opinions about various disclosure documents filed by companies, including mutual funds. The consultant's report concerning the focus group testing and related transcripts are in the comment file for this rule (*available at* [www.sec.gov/comments/s7-08-15/s70815.shtml](http://www.sec.gov/comments/s7-08-15/s70815.shtml)). The consultant's report concerning the telephone survey is available at <http://www.sec.gov/pdf/disclosedocs.pdf>.

shares. As part of these general efforts, we are also issuing a Request for Comment directed at investors regarding ways in which fund disclosure, including shareholder reports, may be improved.<sup>20</sup> We are also issuing a second Request for Comment on the processing fees charged by intermediaries for distributing fund shareholder reports and other materials to investors.<sup>21</sup>

#### **A. Public Comment**

We received over 1,000 comments on the Proposing Release, the vast majority of which specifically commented on proposed rule 30e-3.<sup>22</sup> While some commenters provided comments on specific aspects of the proposal, most focused on whether the Commission should adopt the rule at all. Commenters supporting the proposed rule cited benefits including those related to website transmission generally, the proposed rule's consistency with internet usage trends, savings to funds and ultimately investors from the reduction in printing and mailing costs, and environmental benefits. In many cases, these commenters recommended modifications to the proposed rule to increase cost savings and other benefits under the rule and to provide clarity regarding how the rule would operate in certain contexts.<sup>23</sup>

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<sup>20</sup> Fund Retail Investor Experience and Disclosure Request for Comment, Investment Company Act Release No. 33113 (June 5, 2018) (“Disclosure Request for Comment”). Comments are requested by October 31, 2018; *see infra* Section I.C.

<sup>21</sup> Request for Comments on the Processing Fees Charged by Intermediaries for Distributing Materials Other Than Proxy Materials to Fund Investors, Investment Company Act Release No. 33114 (June 5, 2018) (“Processing Fee Request for Comment”). Comments are requested by October 31, 2018; *see infra* Section I.C.

<sup>22</sup> *See infra* Section II.A. The comment letters on the Proposing Release (File No. S7-08-15) are available at <https://www.sec.gov/comments/s7-08-15/s70815.shtml>.

<sup>23</sup> *See infra* Sections II.B.2 (application to UITs with transmission obligations under rule 30e-2), II.C (shares held through certain financial intermediaries).

Commenters opposed to the proposed rule focused on concerns such as the impact on certain demographic groups that may have limited access to the internet, the proposed rule's use of implied consent, the extent to which cost savings under the proposed rule would not be as great as anticipated by the Commission, and the adverse impact on certain third parties such as the paper industry and mail carriers.

#### **B. Overview of Final Rule and Transmission Framework Generally**

After consideration of the comments we received, we are adopting rule 30e-3 with several modifications designed to respond to investor protection concerns, provide additional flexibility and clarity in the operation of this transmission regime, and further increase cost savings for investors. Some key elements of the new transmission framework under rule 30e-3 include:

- *Use of Rule is Optional.* We note that this new method of transmission is optional—funds that wish to transmit shareholder reports in paper or pursuant to the Commission's existing electronic delivery guidance<sup>24</sup> will continue to be able to satisfy their regulatory obligations by those methods.
- *Use of Rule With Respect to Investors Who Have Opted Into Electronic Delivery.* The rule will not require changes to existing methods of delivering shareholder reports electronically. The rule does not supercede or modify the Commission's existing guidance regarding electronic delivery of fund shareholder reports.

Funds and intermediaries may continue to rely on the Commission's guidance to

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<sup>24</sup> See 1995 Release, *supra* note 18; 1996 Release, *supra* note 18; 2000 Release, *supra* note 18.

electronically transmit reports to investors who have elected to receive reports electronically.<sup>25</sup>

- *Preservation of Preference for Paper Reports.* Recognizing that some investors may wish to receive their shareholder reports in paper, the final rule—as did the proposed rule—incorporates a set of protections designed to preserve the ability of investors to receive paper reports on a per report or ongoing basis if that is their preferred means of communication.<sup>26</sup>
- *Website Availability of Reports and Other Information.* As proposed, the shareholder report and other required materials must be made publicly accessible and free of charge at a website address specified in a notice to investors.<sup>27</sup>
- *Notice.* Substantially as proposed, investors must be provided with a paper notice of the website availability of the shareholder report (“Notice”) that contains instructions by which investors will be able to request a paper or email copy. The final rule allows funds greater flexibility than the proposal in the design of the Notice by permitting it to contain additional information including, for example, content from the shareholder report that the fund considers helpful to investors, instructions on how investors can elect electronic delivery of reports and other

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<sup>25</sup> For example, a fund or intermediary will not be required to send those investors, electronically or otherwise, a notice required by the rule. Some investors who receive shareholder reports pursuant to rule 30e-3 may in the future elect delivery under the Commission’s electronic delivery guidance. The final rule requires funds to include in notices instructions regarding how an investor can elect to receive shareholder reports or other documents by electronic delivery if the fund offers electronic delivery. *See* rule 30e-3(c)(1)(v)(C).

<sup>26</sup> *See infra* Sections II.B.2.c, II.B.2.d.

<sup>27</sup> *See infra* Section II.B.2.a.

materials, and pictures, logos, or similar design elements so long as the design is not misleading and the information is clear.<sup>28</sup>

- *New Extended Transition Period.* To inform investors in advance of the change of transmission method, and to accommodate systems and operations changes by funds, intermediaries and service providers necessary to implement the new optional transmission regime, we are adopting an extended transition period.<sup>29</sup> This extended transition period replaces the proposed requirement to send an “Initial Statement” 60 days in advance of reliance on the rule with respect to an investor.
- *Filing of Notice.* We have modified the proposal by adopting amendments to Form N-CSR to require the filing of Notices that incorporate disclosures from the shareholder report.<sup>30</sup> This requirement should help further inform Commission regulatory efforts with respect to how the content of shareholder reports can be improved and should help our monitoring for compliance with the rule.
- *Guidance Regarding Financial Intermediaries.* We are also providing guidance, as requested by commenters, to clarify the operation of the rule in the context of financial intermediaries such as broker-dealers.<sup>31</sup>

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<sup>28</sup> See *infra* Section II.B.2.b; note 191 (reminding funds of their obligations with respect to the antifraud provisions of the federal securities laws).

<sup>29</sup> See *infra* Sections II.B.2.d, II.B.2.f, II.E.

<sup>30</sup> See *infra* Section II.B.2.b.v.

<sup>31</sup> See *infra* Section II.C.

### C. Other Actions

We are committed to continuously improving the content and delivery of information to investors, including through efforts that encourage the use of technology to provide investors with the tools they need to evaluate their investments, and reducing costs and other regulatory burdens where appropriate. To that end, today we are taking two related actions intended to further these goals.

First, we approved amendments to rules of the New York Stock Exchange (“NYSE”) regarding processing fees paid to financial intermediaries for the delivery of shareholder reports and Notices under “notice and access” rules such as rule 30e-3 to investors holding shares through certain financial intermediaries.<sup>32</sup> The NYSE rule amendments state that “notice and access” processing fees, which previously applied only to proxy distributions where an issuer elects to utilize notice and access for a proxy

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<sup>32</sup> See Exchange Act Release Nos. 83378 (June 5, 2018) (Order Affirming Action by Delegated Authority Approving SR-NYSE-2016-55 and Discontinuing Stay); 79370 (Nov. 21, 2016) [81 FR 85655 (Nov. 28, 2016)] (Stay Order); 79355 (Nov. 18, 2016) [81 FR 85291 (Nov. 25, 2016)] (Approval Order) (“NYSE Approval Order”); 78589 (Aug. 16, 2016) [81 FR 56717 (Aug. 22, 2016)] (Notice). NYSE rule 451 outlines three types of processing fees discussed by commenters in connection with the proposal: (i) the “interim report” fee (a processing unit fee of \$0.15 per account, whether a report is delivered in paper, or delivery is “suppressed” because the report is delivered electronically or not delivered because of “householding” or other reasons); (ii) the “preference management” fee (a \$0.10 fee assessed for each suppressed account—*e.g.*, accounts receiving shareholder reports by email or householded accounts); and (iii) a “notice and access” fee (an incremental fee charged at declining marginal levels based on the number of all financial intermediary accounts through which fund securities are beneficially owned; there are five marginal fee tiers (in \$0.05 increments) per account beginning with the \$0.25 per account tier and decreasing to \$0.05 per account tier). See NYSE rule 451.90.3–451.90.5; see also NYSE rules 465 and 451.10 (noting applicability of fees under NYSE rule 451 to distribution of interim and annual reports).

distribution,<sup>33</sup> may also apply to transmission of shareholder reports under rule 30e-3 to beneficial owners who purchase their fund shares through broker-dealer intermediaries.<sup>34</sup> The amendments clarify, however, that the “notice and access” fee will not be charged for any account with respect to which a fund pays a “preference management” fee in connection with a distribution of shareholder reports.<sup>35</sup> In addition, the NYSE rule amendments clarify that, for purposes of determining the amount of notice and access fees to be charged, the number of accounts should be computed by aggregating shares of any class of stock of the issuer eligible to receive the same distribution.<sup>36</sup>

Second, today we also are issuing two releases requesting comment on issues related to shareholder reports. In the first release, we are requesting comment on enhancing fund disclosures to improve the investor experience and to help investors make more informed investment decisions.<sup>37</sup> This release requests feedback directly from fund investors on the delivery, design and content of fund disclosure.

In the second release, we are requesting comment on the processing fees charged by intermediaries for distributing fund shareholder reports and other materials to investors.<sup>38</sup> For example, we are requesting comment on the current processing fee

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<sup>33</sup> See rule 14a-16 under the Exchange Act which permits issuers, that comply with the requirements of the rule, to distribute proxy material electronically through the “notice and access” method. 17 CFR 240.14a-16.

<sup>34</sup> See NYSE rule 451.90(5). The Commission notes that the NYSE rule states that the “notice and access fees” in NYSE rule 451.90(5) apply to the “distribution of investment company shareholder reports pursuant to any ‘notice and access’ rules adopted by the [Commission].” We believe that rule 30e-3 qualifies as such a rule.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> See Disclosure Request for Comment, *supra* note 20.

<sup>38</sup> See Processing Fee Request for Comment, *supra* note 21.

structure, including the application of various processing fees and rates thereof under the NYSE rules, transparency of these fees, practices related to the payment of these fees and remittances received by financial intermediaries for delivery of fund documents (including shareholder reports), and the appropriateness of these fees in cases where intermediaries are separately paid shareholder servicing fees from fund assets.

## **II. DISCUSSION**

### **A. General Comments Regarding Rule 30e-3**

Most commenters on the proposal focused on whether we should adopt rule 30e-3 and particularly its optional method of satisfying requirements to transmit shareholder reports by making them available on websites. We discuss below general comments received on the proposal, as well as why we have determined to adopt the rule. Specific comments on the particular provisions of the rule as proposed are discussed in more detail in Sections II.B.2–II.E below.

#### **1. Increased Internet Usage**

Commenters supporting the rule cited the benefits of allowing transmission of shareholder reports by making them accessible on websites, including improving the overall accessibility of the information<sup>39</sup> and expanding the possibilities for innovative

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<sup>39</sup> *See, e.g.*, Comment Letter of Capital Research and Management Company (Aug. 11, 2015) (“Capital Research Comment Letter I”); Comment Letter of Capital Research and Management Company (May 7, 2018) (“Capital Research Comment Letter II”); Comment Letter of Simpson Thacher & Bartlett LLP (Aug. 11, 2015) (“Simpson Thacher Comment Letter”); Comment Letter of Interactive Data Pricing and Reference Data LLC (Aug. 10, 2015) (“Interactive Data Comment Letter”); Comment Letter of Investment Company Institute (Aug. 12, 2015) (“ICI Comment Letter I”) (noting many investors now prefer enhanced availability of information on the internet).

visual displays and layered disclosure.<sup>40</sup> Commenters pointed to trends towards increasing internet usage, with some commenters highlighting that 94% of households owning mutual funds had some form of internet access in 2014, up from 68% in 2000.<sup>41</sup> Commenters also noted that internet usage has increased among previously underserved demographic groups.<sup>42</sup>

A number of commenters stated that website disclosure is consistent with many investors' preferences.<sup>43</sup> One commenter stated that shareholder use of the internet to conduct fund transactions had increased sharply since 2005, with 89% of the transactions processed by its fund family for direct shareholders made through electronic means in

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<sup>40</sup> See Comment Letter of Investment Company Institute (July 8, 2016) ("ICI Comment Letter II") ("Paper reports are unable to help investors navigate layered information or access more detailed information. The Internet offers the ultimate a la carte menu: those who want more extensive information can get it; those who do not can access or be provided the essential information they need, in a form they are likely to use."); see also Recommendation of the Investor Advisory Committee Regarding Promotion of Electronic Delivery and Development of a Summary Disclosure Document for Delivery of Investment Company Shareholder Reports (Dec. 7, 2017) ("Investment Advisory Committee Recommendation"); Comment Letter of the Consumer Action and National Consumers League to Anne Sheehan, Chairman of the Investor Advisory Committee (Dec. 1, 2017), *available at* <https://www.sec.gov/comments/265-28/26528-2748128-161587.pdf>.

<sup>41</sup> See, e.g., Comment Letter of the Committee of Annuity Insurers (Aug. 11, 2015) ("CAI Comment Letter I"); Capital Research Comment Letter I; ICI Comment Letter I.

<sup>42</sup> See, e.g., ICI Comment Letter I (noting widespread use of the internet among various age groups, education levels and income levels and highlighting a 2014 ICI study that "found the following with respect to Internet access in mutual fund owning households: (1) head of household age 65 or older, 86% have access; (2) education level of high school diploma or less, 84% have access; and (3) household income of less than \$50,000, 84% have access"); ICI Comment Letter II (highlighting a 2015 survey showing that 85% of all Americans had access to the internet); CAI Comment Letter I (stating that "very widespread Internet access holds true even for those demographic groups that may generally be assumed to have relatively less Internet access than most").

<sup>43</sup> See, e.g., Capital Research Comment Letter I; Comment Letter of CFA Institute (Aug. 10, 2015) ("CFA Institute Comment Letter") ("We support this proposal to modernize the system for providing reports and believe most investors will view this as positively."); ICI Comment Letter II (stating "the Commission's proposal aligns much more effectively with shareholder preferences for information access than the current outdated system").

2014.<sup>44</sup> Similarly, another commenter stated that “with increased ease of access, investors also increasingly prefer enhanced availability of financial information on the Internet.”<sup>45</sup> This commenter provided survey results from 2013 finding that 82% of U.S. households owning mutual funds used the internet for financial purposes.<sup>46</sup> Several commenters also believed that the rule as proposed included appropriate protections for investors preferring paper by preserving the option for fund investors to continue receiving paper reports.<sup>47</sup>

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<sup>44</sup> See Comment Letter of T. Rowe Price Associates, Inc. (Aug. 21, 2015) (“T. Rowe Price Comment Letter I”) (comparing this with data from 2005 when 65% of transactions processed with direct shareholders were made through electronic means); Comment Letter of T. Rowe Price Associates, Inc. (Apr. 17, 2018) (“T. Rowe Price Comment Letter II”) (noting that in 2017, 87% of their interactions “with personal and workplace investors took place digitally via mobile applications or the Web”).

See also FINRA Investor Education Foundation, *Investors in the United States 2016* (Dec. 2016), available at [http://www.usfinancialcapability.org/downloads/NFCS\\_2015\\_Inv\\_Survey\\_Full\\_Report.pdf](http://www.usfinancialcapability.org/downloads/NFCS_2015_Inv_Survey_Full_Report.pdf) (“FINRA 2016 Investors Study”). While the FINRA 2016 Investors Study does not distinguish fund shareholder reports from other disclosure materials regarding investments (nor does it specify what disclosure materials are contemplated in this survey *e.g.*, shareholder reports, summary prospectuses, statutory prospectuses, account statements, etc.), it presents general investor survey data regarding investor disclosure preferences: 49% of respondents prefer paper documents physically mailed, 27% of respondents prefer electronic documents by email, 14% prefer in-person meetings with a broker/adviser, and 6% prefer that documents are accessed on the internet (not via email).

<sup>45</sup> See ICI Comment Letter I.

<sup>46</sup> See *id.*

<sup>47</sup> See, *e.g.*, CFA Institute Comment Letter (“We believe the proposed conditions for using this option are appropriate to accommodate those investors wishing to receive paper reports.”); Comment Letter of State Street Corporation (Aug. 11, 2015) (“State Street Comment Letter”) (“We believe there are adequate safeguards in Rule 30e-3 which would allow shareholders who desire a hardcopy to still receive one.”); Comment Letter of Jonathan F. Zeschin, Independent Trustee and Board Chair of Matthews Asia Funds (Sept. 27, 2016) (“[T]hose few shareholders who prefer to receive written reports in the mail can still do so, and the proposed rule includes appropriate notices and other safeguards for those shareholders.”); Comment Letter of Independent Directors Council (May 10, 2016) (“IDC Comment Letter”) (“It is important to bear in mind that the proposed rule includes appropriate safeguards for those shareholders who may still prefer to receive written reports in the mail.”); Comment Letter of Fidelity Equity and High Income Funds (Apr. 24, 2017) (“Fidelity Comment Letter

A number of commenters in opposition to the proposed rule, however, suggested that the rule could have adverse effects on investors.<sup>48</sup> Specifically, several commenters argued that internet access and use among Americans was not universal.<sup>49</sup> Some commenters provided data showing that approximately 25–30% of Americans do not have a computer with broadband internet access in their homes.<sup>50</sup> Some commenters noted that particular demographic groups may be less likely to use the internet.<sup>51</sup> Some

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II”) (“Accordingly, investors ultimately would retain the ability to determine the manner in which they receive their shareholder reports and those who desire paper delivery would be appropriately protected.”).

- <sup>48</sup> See, e.g., Comment Letter of Sen. Susan M. Collins, Sen. Angus S. King, Jr., and Rep. Bruce Poliquin (Aug. 10, 2016) (“Collins, King and Poliquin Comment Letter”) (“Our concern, is that the safeguards in the proposed rule will not adequately ensure that those who rely on paper delivery will continue to have access to this important information.”); Comment Letter of David T. Herrod (Aug. 1, 2015) (“I feel an electronic default option would be detrimental to me as well as thousands of other investors.”); Comment Letter of Thomas G. Umenhofer (July 20, 2015) (“Not all Mutual Fund participants have access to computers or the internet, but do have access to the USPS. By implementing Rule 30e-3, you will be disadvantaging many mutual fund participants.”).
- <sup>49</sup> See, e.g., Comment Letter of Zane Hollenberger (July 27, 2015) (contending that internet access was not universal and would serve as a “poor replacement” for timely receipt of personal financial information through the mail); Comment Letter of John R. Dyce, President of the Ohio State Association of Letter Carriers (July 28, 2015) (“Significant portions of this country’s population lack access to electronic services.”); Comment Letter of National Rural Letter Carriers’ Association (Aug. 5, 2015) (“National Rural Letter Carriers’ Comment Letter”) (“[T]he proposed rule would disadvantage the elderly, those with disabilities, and racial and ethnic minorities as these groups are far less likely than other Americans to have regular access to the internet.”).
- <sup>50</sup> See, e.g., Comment Letter of American Forest and Paper Association (Aug. 7, 2015) (“American Forest and Paper Comment Letter”); Comment Letter of Forest Resources Association Inc. (Aug 10, 2015) (“Forest Resources Comment Letter”); Comment Letter of Consumer Action and National Consumers League (Apr. 12, 2016) (“Consumer Action and Consumers League Comment Letter”). See also Comment Letter of Broadridge Financial Solutions, Inc. (Aug. 11, 2015) (“Broadridge Comment Letter I”) (noting that “growth in Internet usage is driven in part by a greater penetration of mobile devices whose use to access regulatory reports on the Internet would add costs to investors”).
- <sup>51</sup> See, e.g., American Forest and Paper Comment Letter; Comment Letter of Best Cutting Die Company (Aug. 6, 2015) (“Many ‘seniors’ are not computer literate, and may not even own, or have access to a computer.”); Comment Letter of Consumer Action (Jan. 8, 2016) (“Consumer Action Comment Letter”) (stating that seniors and minorities would be

commenters drew on the results of studies we noted in the Proposing Release, which indicate that, in 2013, 41% of seniors 65 and older do not use the internet and that, in 2014, 34% of seniors 65 and older own mutual funds.<sup>52</sup> Some commenters suggested that some people are less likely to use the internet specifically for financial purposes, to research funds, or to receive shareholder reports and other disclosure.<sup>53</sup>

## 2. Use of “Implied Consent”

A number of commenters addressed the use of “implied consent” to allow for website transmission of shareholder reports. One commenter pointed to behavioral research that suggested implied consent is a “weak” reflection of actual willingness and that the introduction of new processes (*e.g.*, website transmission) may block “psychologically effective access” to shareholder reports.<sup>54</sup> Another commenter stated that implied consent is inadequate because the proposed method for obtaining implied consent “does not justify the conclusion that implied consent is gained for investors” and that most investors preferred paper communications.<sup>55</sup> Some commenters noted that certain federal agencies do not permit implied consent for electronic delivery of certain

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disadvantaged by the proposal given statistics showing these groups may be less likely to have access to the internet); National Rural Letter Carriers’ Comment Letter (“Internet access in some rural parts of the country remains limited and many of our customers must rely on the mail for their investment reports.”).

<sup>52</sup> See Proposing Release, *supra* note 14, at 33627; *see, e.g.*, American Forest and Paper Comment Letter; Comment Letter of Eric Skogseth, EVP of Bay State Envelope (July 16, 2015); Comment Letter of Lydia J. Morgan, CEO of Morgan Printers, Inc. (June 12, 2015). *But see* ICI Comment Letter I (discussing the results of a 2014 ICI survey showing that, among Americans 65 or older, those who own mutual funds are more likely to have internet access).

<sup>53</sup> *See, e.g.*, Broadridge Comment Letter I.

<sup>54</sup> *See id.*

<sup>55</sup> *See* American Forest and Paper Comment Letter.

materials.<sup>56</sup> Commenters also pointed to a 2013 survey that asked if the government or firms in the private sector should force consumers to shift from paper to electronic content in which 73% of respondents said it is wrong to expect anyone to go online to interact with government agencies.<sup>57</sup> Some commenters opposed to the implied consent provisions in proposed rule 30e-3 suggested that the proposed Initial Statement (from which consent would be inferred under the proposed rule)<sup>58</sup> could be inadvertently discarded or missed by investors.<sup>59</sup>

We also received a number of comments stating that website transmission of shareholder reports should not be the default transmission option.<sup>60</sup> Others expressed concerns with having to use personal printers to print shareholder reports,<sup>61</sup> and one

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<sup>56</sup> See, e.g., American Forest and Paper Comment Letter (stating that the Internal Revenue Service does not allow financial organizations to use implied consent to enroll investors in electronic delivery of tax documents); Comment Letter of Domtar (Aug. 3, 2015) (“The SEC should follow other federal agencies in requiring recipients to take an affirmative action for e-delivery of important investment documents.”). With respect to electronic delivery (where documents or website links thereto are emailed directly to an investor’s individual email address), the Commission also does not permit implied consent. See 1995 Release, *supra* note 18; cf. Comment Letter of L.A. Schnase (July 2, 2015) (“Schnase Comment Letter”) (supporting the proposal, but expressing concern about the “piecemeal approach” the Commission is taking to the regulatory scheme governing electronic deliveries).

<sup>57</sup> See, e.g., American Forest and Paper Comment Letter; Consumer Action Comment Letter. The proposed rule, however, would not have required electronic transmission of shareholder reports, and investors would not have been required to go online to interact with the Commission or any other government agency.

<sup>58</sup> See proposed rule 30e-3(c).

<sup>59</sup> See Collins, King and Poliquin Comment Letter; Comment Letter of Karen Hibdon (July 31, 2015).

<sup>60</sup> See, e.g., Comment Letter of Barry Daniels (June 12, 2015); Comment Letter of Larry Hensley, Process Engineer, Glatfelter (Aug. 3, 2015); Comment Letter of Craig Timm (Aug. 10, 2015).

<sup>61</sup> See, e.g., Comment Letter of Bob Broadbear (July 20, 2015); Comment Letter of Marina Joyce (June 12, 2015); Comment Letter of Forest2Market (Aug. 7, 2015).

commenter expressed concern that funds would eventually charge investors for paper shareholder reports.<sup>62</sup>

On the other hand, we received several comments stating that the proposed rule better aligns with investor preferences for access to financial information,<sup>63</sup> and recommending that we broaden the use of implied consent in certain ways.<sup>64</sup> One of these commenters noted that the proposal, which would allow investors to “opt into” paper delivery, would allow funds to more readily accommodate the preferences of all investors.<sup>65</sup> Several commenters also noted that this approach was consistent with prior Commission efforts to improve accessibility of information for the benefit of investors.<sup>66</sup>

### **3. Cost Savings**

Many commenters supporting the proposed rule stated that the rule would result in reduced printing and mailing costs for funds (and ultimately fund investors).<sup>67</sup> Several

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<sup>62</sup> See Comment Letter of Robert C. Tugwell (Aug. 10, 2015).

<sup>63</sup> See, e.g., ICI Comment Letter II (“[F]ewer than half of mutual fund shareholders still review some printed materials for information about their fund investments, and over two-thirds of these individuals likewise access online materials to gather information on their fund investments.”).

<sup>64</sup> See, e.g., Comment Letter of Allianz Life Insurance of North America (Aug. 11, 2015) (“Allianz Comment Letter”) (recommending that the Commission expand proposed rule 30e-3 to allow broader electronic delivery of certain documents, including prospectuses, using implied consent); ICI Comment Letter I (recommending that the Commission permit investors’ implied consent to cover all series and funds in a fund complex and all funds held through a single financial intermediary).

<sup>65</sup> See ICI Comment Letter I.

<sup>66</sup> See, e.g., *id.*; see also Comment Letter of The Dreyfus Corporation (Aug. 11, 2015) (“Dreyfus Comment Letter”).

<sup>67</sup> See, e.g., Comment Letter of BlackRock, Inc. (Aug. 11, 2015) (“BlackRock Comment Letter”); Comment Letter of the Center for Capital Markets Competitiveness (Sept. 6, 2016) (“CCMC Comment Letter”); Comment Letter of Confluence Technologies, Inc. (Aug. 11, 2015) (“Confluence Comment Letter”); ICI Comment Letter I; ICI Comment Letter II; IDC Comment Letter; Comment Letter of Mutual Fund Directors Forum (Aug. 11, 2016); Schnase Comment Letter; Comment Letter of the Securities Industry and Financial Markets

commenters provided estimates of costs relating to potential cost savings under rule 30e-3.<sup>68</sup> One commenter indicated that its fund group spends approximately \$3.8 million annually to print and mail shareholder reports to direct fund investors, and estimated that the proposed rule would result in savings of up to 50% of that amount.<sup>69</sup> Another commenter estimated annual industry costs for print and mail delivery of shareholder reports at \$344 million and suggested that, if the proposed rule was adopted, it had the potential to save fund shareholders on a net basis an estimated \$140 million within the first three years and \$89 million per year after the first year.<sup>70</sup>

One commenter claimed that the cost savings realized from proposed rule 30e-3 would likely not be passed on to investors and would not have a noticeable impact on

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Association (Aug. 11, 2015) (“SIFMA Comment Letter”); Comment Letter of the Asset Management Group of the Securities Industry and Financial Markets Association (Aug. 11, 2015) (“SIFMA AMG Comment Letter”); Simpson Thacher Comment Letter; T. Rowe Price Comment Letter I; T. Rowe Price Comment Letter II; Comment Letter of Vanguard (Aug. 11, 2015) (“Vanguard Comment Letter”); Capital Research Comment Letter II.

<sup>68</sup> Another commenter cited a third party’s estimate of \$320 million in savings from the Commission’s e-proxy initiative in 2014. *See* Confluence Comment Letter (citing estimates published by Broadridge in Analysis of Distribution and Voting Trends Fiscal Year Ended June 30, 2014). The commenter further stated that “[b]y changing the default, Rule 30e-3 will result in a greater percentage of electronic delivery, which in turn will lower fund expenses, lower fund expense ratios, and generate higher returns, a benefit to all investors, both those comfortable with electronic delivery and those who require continued physical delivery.”

<sup>69</sup> *See* T. Rowe Price Comment Letter I.

<sup>70</sup> *See* ICI Comment Letter I (stating further that if the Commission adopted the commenter’s suggested changes to the rule, potential net savings could instead total \$465 million within the initial three-year timeframe). In a subsequent comment letter, the commenter revised its estimates to account for another commenter’s interpretation of how NYSE processing fees would be applied to a rule 30e-3 framework. *See* Comment Letter of Investment Company Institute (Mar. 14, 2016) (“ICI Comment Letter III”) (stating that based on this interpretation, the net savings would be less than the ICI Comment Letter I projections; and estimating that even if ICI’s recommended “postcard” modification were incorporated in the final rule, there would be a net cost of \$84 million in the initial year and a subsequent net savings of \$83 million per each subsequent year).

investor costs even if it were passed on to investors.<sup>71</sup> Another commenter suggested that the cost savings would benefit a relatively small number of mutual funds and be less significant than in the notice and access approach used in the proxy statement context, which the commenter compared to the proposed rule.<sup>72</sup> This commenter stated that the proposed rule would result in greater processing fees for fund shares held through certain intermediaries. This commenter also suggested that cost savings could be better realized through the continued growth of electronic delivery under the Commission's existing guidance, which the commenter suggests is already common and projected to reach 59% of all transmissions of shareholder reports in 2018.<sup>73</sup> The commenter estimated that fund companies currently expend \$354 million for printing and mailing of shareholder reports and projected printing and mailing costs of \$382 million in 2018 under the existing requirements.<sup>74</sup> The commenter estimated that aggregate net savings under the proposed rule would be about \$18 million, or \$0.02 per report, in 2018.<sup>75</sup>

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<sup>71</sup> See Comment Letter of Consumer Federation of America (July 29, 2015).

<sup>72</sup> See Broadridge Comment Letter I (contending that, based on its interpretation of New York Stock Exchange regulated rates, approximately 5% of fund report distribution jobs that Broadridge processes would result in a savings of \$10,000 or more). We believe that in light of the NYSE Approval Order regarding processing fees paid to financial intermediaries for the delivery of shareholder reports and other documents to investors holding shares through certain financial intermediaries, the facts supporting the assumptions underlying this commenter's analysis have changed. See *supra* note 32.

<sup>73</sup> See Broadridge Comment Letter I; Comment Letter of Broadridge Financial Solutions, Inc. (Jan. 13, 2016) ("Broadridge Comment Letter II"). This commenter subsequently submitted presentation materials in connection with a meeting with Division of Investment Management staff, which included survey data in support of their projections. See Memorandum from the Division of Investment Management re: meeting with Broadridge (Sept. 27, 2017) (including attachments thereto containing the survey data presented) ("Broadridge Meeting Memo I"); Memorandum from the Division of Investment Management re: meeting with Broadridge (Apr. 13, 2018) ("Broadridge Meeting Memo II")

<sup>74</sup> See Broadridge Comment Letter I; Broadridge Comment Letter II.

<sup>75</sup> Broadridge Comment Letter I.

Finally, several commenters highlighted that the potential cost savings for funds and investors resulting from the proposed rule may depend in part on the application of the NYSE processing fees that funds pay to financial intermediaries.<sup>76</sup> As noted earlier, today we approved amendments to NYSE rules regarding processing fees paid to financial intermediaries that would clarify the application of certain fees under the rule 30e-3 framework.<sup>77</sup>

#### **4. Regulatory Consistency**

Some commenters also supported the proposed rule as consistent with other regulatory frameworks adopted by the Commission and other regulatory bodies that encourage website availability as a means to satisfy disclosure obligations.<sup>78</sup> For example, one commenter stated that the proposed rule was consistent with prior Commission efforts to modernize the manner in which information is provided to investors and to improve accessibility by taking advantage of technology for the benefit of investors.<sup>79</sup> Others asserted that the notice and access model under the proposed rule was similar to the model adopted by another federal agency in 2014 for certain financial institutions to satisfy privacy notice transmission requirements.<sup>80</sup> In addition, one

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<sup>76</sup> *See, e.g.*, ICI Comment Letter II; Broadridge Comment Letter I.

<sup>77</sup> *See supra* Section I.C.

<sup>78</sup> *But see supra* note 56 and accompanying text (noting some commenters that stated that certain federal agencies do not permit implied consent for electronic delivery of certain materials).

<sup>79</sup> *See, e.g.*, ICI Comment Letter I. *But see* Schnase Comment Letter (supporting the proposal, but arguing that the Commission should go further and “allow funds to use the web to satisfy their delivery obligations for prospectuses, [statements of additional information] and other investor documents in addition to shareholder reports . . .”).

<sup>80</sup> *See, e.g.*, CAI Commenter Letter; ICI Comment Letter I. Referring to a rule adopted by the Bureau of Consumer Financial Protection (commonly known as the Consumer Financial Protection Bureau and referenced herein as the “Bureau”). The rule that the Bureau adopted

commenter highlighted regulatory regimes in foreign jurisdictions that permit a transmission framework for shareholder reports similar to that under the proposed rule.<sup>81</sup>

## 5. Environmental Benefits

Some commenters highlighted the environmental benefits associated with the reduction of paper reports under the rule, including fewer trees needed to make paper and a reduction in landfill waste.<sup>82</sup> Some of these commenters also stated that the proposed

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in 2014 permitted financial institutions to post the required privacy notice online if they met certain conditions, including the financial institution notifying consumers by mail on an annual basis about the availability of the notice. *See* Amendment to the Annual Privacy Notice Requirement Under Gramm-Leach-Bliley Act (Regulation P), Bureau of Consumer Financial Protection (Oct. 20, 2014), *available at* [http://files.consumerfinance.gov/f/201410\\_cfpb\\_final-rule\\_annual-privacy-notice.pdf](http://files.consumerfinance.gov/f/201410_cfpb_final-rule_annual-privacy-notice.pdf).

In December 2015, Congress amended the Gramm-Leach-Bliley Act (“GLBA”) as part of the Fixing America’s Surface Transportation Act. These amendments to the GLBA provide an exception under which financial institutions that meet certain conditions are not required to provide annual privacy notices to customers. Because the Bureau determined that the alternative delivery method was no longer necessary in light of this new statutory exception, the Bureau proposed in June 2016 to remove the alternative delivery method from its regulations implementing the GLBA. *See* Amendment to the Annual Privacy Notice Requirement Under the Gramm-Leach-Bliley Act (Regulation P), Bureau of Consumer Financial Protection (June 29, 2016), *available at* <http://www.consumerfinance.gov/policy-compliance/rulemaking/rules-under-development/amendment-annual-privacy-notice-requirement-under-gramm-leach-bliley-act-regulation-p/>.

<sup>81</sup> *See* ICI Comment Letter II. This commenter suggested that the proposed rule was consistent with a global movement toward online financial disclosure and cited three foreign regimes as examples of this movement. These examples include: (1) the European Union, where funds are permitted to post shareholder reports on a website, with paper annual or semi-annual reports available by mail on request; (2) Canada, where funds send a negative consent letter to shareholders on an annual basis and shareholders may request a copy of the shareholder report by mail if desired; and (3) Australia, where funds can make shareholder reports available on a website, as long as in the first year of doing so they notify shareholders, explain how to access the website, and provide the option to request a mailed copy of the report.

<sup>82</sup> *See, e.g.*, Comment Letter of Environmental Paper Network (Oct. 4, 2016) (proposed rule would reduce landfill waste and resources associated with processing, printing, and transportation, which ultimately would reduce greenhouse gas emissions, water consumption and pollution, air pollution, wood and energy use, and solid waste); ICI Comment Letter II (estimating that the proposed rule would save approximately 2 million trees each year); Comment Letter of the Committee of Annuity Insurers (July 22, 2016) (“CAI Comment Letter II”) (noting that several members of the Committee indicated that they each send

rule is consistent with certain national and international initiatives regarding environmental issues, including The American Business Act on Climate Pledge<sup>83</sup> and The Paris Agreement<sup>84</sup> to combat climate change.<sup>85</sup> Some commenters suggested, however, that environmental benefits of the proposed rule are overstated, citing environment-friendly initiatives previously undertaken by the paper industry.<sup>86</sup>

## 6. Reliability and Security Concerns

A number of commenters also expressed a preference for transmission of paper shareholder reports because of the reliability and security of information delivered by the U.S. Postal Service.<sup>87</sup> We note that, under the rule as proposed and final rule 30e-3, paper Notices would be mailed to investors, and those investors who prefer to have their shareholder reports mailed to them will continue to be able to receive them in that manner by making a request to permanently receive all future reports in paper, or by requesting individual reports in paper whenever they desire.

We also received a number of comments expressing cybersecurity concerns related to the proposed rule. The vast majority of these comments, however, did not

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approximately 1 billion pages per year to contract owners in connection with their regulatory obligation to delivery annual and semi-annual reports to contract owners).

<sup>83</sup> See ICI Comment Letter II (citing the American Business Act on Climate Pledge).

<sup>84</sup> See *id.* (citing the United Nations Framework Convention on Climate Change, the Paris Agreement).

<sup>85</sup> See, e.g., ICI Comment Letter II; BlackRock Comment Letter.

<sup>86</sup> See, e.g., Comment Letter of Doug Delaney (Aug. 7, 2015); Comment Letter of Mark A. Heyde (Aug. 7, 2015); Comment Letter of Shane Johnson (June 12, 2015). Many other commenters argued that the proposed rule would harm the paper industry and postal workers. See, e.g., Comment Letter of Kathy Watters (July 20, 2015); Comment Letter of James Sandstrom (Aug. 7, 2015) (“Sandstrom Comment Letter”); Comment Letter of PDF Print Communications Inc. (Aug. 10, 2015).

<sup>87</sup> See, e.g., Comment Letter of Richard Griffin (July 28, 2015); Comment Letter of Tom Jones (July 28, 2015); Comment Letter of Michael J. Flynn (Aug. 4, 2015).

appear to fully appreciate the method of transmission proposed under the rule (*e.g.*, paper notice of the website availability of the reports rather than electronic delivery of the reports by email or other means) or the information that would be made available (*e.g.*, shareholder reports rather than account statements that may have personal information).<sup>88</sup>

We are sensitive to these issues and acknowledge the importance of protecting the security of personal information. However, we do not believe that this new method of transmission would meaningfully increase the cybersecurity risks, such as identity thefts or “phishing” attacks, noted by these commenters. Rule 30e-3, as proposed and adopted, does not present email “phishing” attack concerns because investors will not receive email communications as a result of the rule. Rather, shareholder reports would be posted on a public website, and investors would be provided with a paper notice regarding their availability. The final rule does not require that a Notice contain any personally identifiable information. If a fund were to choose to include this information in a Notice, the fund should take measures to protect this information just as funds do today regarding other mailings, like account statements, that may contain sensitive information.<sup>89</sup>

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<sup>88</sup> *See, e.g.*, Comment Letter of Kenneth J. Janulewicz (July 27, 2015); Comment Letter of Mary Wells (Aug. 17, 2015); Comment Letter of Jacquelyn Mangold (July 29, 2015).

<sup>89</sup> *See, e.g.*, Regulation S-P [17 CFR 248.30] (requiring written policies and procedures that address administrative, technical, and physical safeguards for the protection of customer records and information); Privacy of Consumer Financial Information (Regulation S-P), Exchange Act Release No. 42974 (June 22, 2000) [65 FR 40334 (June 29, 2000)] (adopting Regulation S-P); Disposal of Consumer Report Information, Exchange Act Release No. 50781 (Dec. 2, 2004) [69 FR 71322 (Dec. 8, 2004)] (adopting requirements for proper disposal of consumer report information and records).

## **7. Investor Advisory Committee**

In December 2017, the Investor Advisory Committee<sup>90</sup> issued a recommendation regarding the promotion of electronic delivery and the development of a summary disclosure document for the delivery of fund reports.<sup>91</sup> The recommendation provided, among other things, that the Commission explore: (i) methods to encourage a transition to electronic delivery that respect investor preferences and that increase the likelihood that investors will see and read important disclosure documents; and (ii) development of a summary, layered disclosure document for annual shareholder reports that incorporates key information from the report along with prominent notice regarding how to obtain a copy of the full report, and would be designed to be delivered either by mail or by email (depending on the investors' delivery preferences). The Committee also recommended that the Commission seek comment on the appropriate content and format of such a disclosure document and engage in investor testing or encourage testing by industry members.

### **B. Adoption of Rule 30e-3 and Related Amendments**

#### **1. Overview**

After consideration of the comments discussed above, we are adopting rule 30e-3 with several modifications designed to address preservation of investor preferences, cost,

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<sup>90</sup> Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act added Section 39 to the Securities Exchange Act of 1934, which establishes the Investor Advisory Committee. The Committee advises and consults with the Commission on regulatory priorities, issues, and initiatives and submits findings and recommendations to the Commission. 15 U.S.C. 78pp(a). The Commission reviews the findings and recommendations of the Committee and issues a public statement assessing the finding or recommendation and disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation. 15 U.S.C. 78pp(g).

<sup>91</sup> See Investment Advisory Committee Recommendation, *supra* note 40.

and administrability of the rule. Rule 30e-3 is intended to modernize the manner in which shareholder reports and other information are made available to investors and reduce expenses associated with printing and mailing that are currently borne by funds, and ultimately, fund investors.<sup>92</sup>

Reliance on the rule is optional. Funds are permitted to satisfy their delivery obligations by mailing shareholder reports in paper, delivering reports pursuant to the Commission's electronic delivery guidance, providing notice and website accessibility pursuant to rule 30e-3, or any combination of the foregoing, so long as the conditions of the applicable transmission methods are met. We believe that a fund is in the best position to choose whether or not to implement the rule after considering the costs and benefits of the rule, including consideration of the needs and preferences of the fund's particular investors.<sup>93</sup> As discussed below, the final rule has been modified from the proposal to provide increased flexibility for funds to implement the rule according to their particular circumstances and the preferences of their investors. For example, these modifications permit funds to include in the Notice additional information from shareholder reports that they may deem helpful when notifying investors of the availability of reports.

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<sup>92</sup> If any provision of this rule, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or the application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

<sup>93</sup> We understand that internet access and use is not uniformly distributed geographically. *See infra* note 97. In considering whether use of the rule is appropriate, we encourage each fund, in consultation with its intermediaries, to consider the prevalence of internet access and use across its investor base.

The rule is consistent with our prior initiatives to harness the benefits of the internet and other new technologies for investors,<sup>94</sup> and is consistent with similar initiatives of other regulators (both domestic and foreign).<sup>95</sup> Furthermore, as we discussed in the Proposing Release, investor testing and internet usage trends have highlighted the evolution of investor preferences about electronic delivery of information, and shown that many investors would prefer enhanced availability of fund information on the internet.<sup>96</sup> Given both current levels and trends in increasing internet access and

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<sup>94</sup> See *supra* note 18.

<sup>95</sup> See *supra* notes 78–81 and accompanying text. But see *supra* note 56 and accompanying text (noting that some commenters stated that certain federal agencies do not permit implied consent for electronic delivery of certain materials); *supra* note 80 (noting that because of provisions in the Fixing America’s Surface Transportation Act that amended the GLBA to provide an exception under which financial institutions that meet certain conditions are not required to provide annual privacy notices to customers, the Bureau determined that the alternative delivery method for the annual privacy notice requirement was no longer necessary in light of this new statutory exception).

<sup>96</sup> For example, investor testing sponsored by the Commission and conducted in 2011 (“2011 Investor Testing”) suggested that an investor looking for a fund’s annual report is most likely to seek it out on the fund’s website, rather than request it by mail or phone or by retrieving it from the Commission’s Electronic Data, Gathering, Analysis, and Retrieval System (“EDGAR”). Proposing Release, *supra* note 14, at 33626–27. Many investors indicated that they would prefer that fund information be made available in both electronic and paper versions, with a plurality of respondents preferring electronic transmission by email with the option to easily request a paper copy of a particular report, though a significant minority indicated that they would still prefer to receive a paper copy through the mail. *Id.* at 33627.

According to the most recent U.S. census data, approximately 77.2% of U.S. households had some form of internet access in their home in 2015 and 86.8% have a computer (*e.g.*, desktop, laptop, tablet or smartphone). See Camille Ryan & Jamie M. Lewis, Computer and Internet Usage in the United States: 2015 (Sept. 2017), available at <https://www.census.gov/content/dam/Census/library/publications/2017/acs/acs-37.pdf>; see also Sarah Holden, Daniel Schress & Michael Bogdan, Ownership of Mutual Funds, Shareholder Sentiment, and Use of the Internet, 2017 (Oct. 2017), available at <https://www.ici.org/pdf/per23-07.pdf> (“[i]n mid-2017, 95 percent of households owning mutual funds had Internet access, up from about two-thirds in 2000” and “86 percent of mutual fund-owning households with a household head aged 65 or older had internet access in mid-2017”); Andrew Perrin & Maeve Duggan, Americans’ Internet Access: 2000–2015 (June 2015), available at [http://assets.pewresearch.org/wp-content/uploads/sites/14/2015/06/2015-06-26\\_internet-usag](http://assets.pewresearch.org/wp-content/uploads/sites/14/2015/06/2015-06-26_internet-usag)

use—in particular with the significant increase in the use of the internet as a tool for disseminating financial information among all age groups—we believe that it is appropriate to permit the internet availability of shareholder reports to satisfy transmission obligations, subject to certain conditions including protections for investors who continue to prefer reports in paper form.<sup>97</sup>

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e-across-demographics-discover\_FINAL.pdf (finding in 2015, 84 percent of all U.S. adults use the internet).

*But see* Broadridge Meeting Memo I (citing studies on investor delivery preference for shareholder reports and mandatory disclosures regarding investments, which depending on the particular study, found 43% to 55% of investors preferred paper delivery).

Understanding that an investor’s experience when accessing a shareholder report may differ between a mobile device and a laptop, we request comment about investor experiences and preferences for fund disclosures on mobile devices in the Disclosure Request for Comment. *See supra* note 20.

<sup>97</sup> Since the 2011 Investor Testing, third-party studies and surveys indicate access to and use of the internet has continued to increase rapidly, including among demographic groups that have previously been less likely to use the internet. *See, e.g., supra* notes 41–42 and accompanying text; *see also* Pew Research Center, *Who’s Not Online and Why*, at 2 (Sept. 25, 2013), *available at* <http://pewinternet.org/Reports/2013/Non-internet-users.aspx>. The Pew Research Center study, conducted in 2013, found that only 15% of American adults ages 18 and older do not use the internet or email—falling from 26% in 2011, when the Commission’s investor testing was conducted, and from 36% a decade before in 2001. *See* Pew Research Center, *Older Adults and Technology Use*, at 1 (Apr. 3, 2014), *available at* <http://www.pewinternet.org/2014/04/03/older-adults-and-technology-use/>. These researchers also found that in 2016, 67% of adults over the age of 64 used the internet, a 55% increase since 2000. *See* Pew Research Center, *Tech Adoption Climbs Among Older Adults*, at 2 (May 17, 2017), *available at* [http://assets.pewresearch.org/wp-content/uploads/sites/14/2017/05/16170850/PI\\_2017.05.17\\_Older-Americans-Tech\\_FINAL.pdf](http://assets.pewresearch.org/wp-content/uploads/sites/14/2017/05/16170850/PI_2017.05.17_Older-Americans-Tech_FINAL.pdf); *see also* Investment Company Institute, 2017 Investment Company Fact Book, *available at* [https://www.ici.org/pdf/2017\\_factbook.pdf](https://www.ici.org/pdf/2017_factbook.pdf) (“2017 ICI Fact Book”) at 129 (stating that 92% of U.S. households owning mutual funds had internet access in mid-2016).

These trends have also extended to use of the internet for financial purposes. For example, a recent survey by the Investment Company Institute found that in 2017, 95% of U.S. households owning mutual funds had internet access (up from about two-thirds in 2000), with widespread use of the internet among various age groups, education levels and income levels, including access by 86% of mutual fund owning households headed by someone age 65 or older. *See* Ownership of Mutual Funds, Shareholder Sentiment, and Use of the Internet, *supra* note 96, at 18.

We recognize that it is critical for investors to continue to receive disclosure through means that are convenient and accessible for them.<sup>98</sup> We believe that the final rule's conditions include appropriate protections for those who lack internet access or who simply prefer paper reports. Investors who lack internet access or prefer paper reports will be able to continue to receive them by mail:

- First, the final rule provides that investors who prefer to receive reports in paper may continue to do so, either by making a one-time request to receive all future reports in paper, or by requesting individual reports in paper whenever they desire.
- Second, as outlined below in Sections II.B.2.f and II.E, we are adopting an extended transition period with staged effective dates. During the extended transition period, the earliest that Notices may be transmitted to investors in lieu of paper reports is January 1, 2021. In general, funds will be required to provide two years of notice to shareholders before relying on the rule. Therefore, funds that begin providing notice at the start of 2019 will complete the two-year notice period, and may begin relying on the rule, on January 1, 2021. In addition, funds that are newly offered during the period of January 1, 2019 through December 31, 2020 may rely on the rule starting January 1, 2021, if they provide notice to shareholders starting with their first public offering. Funds that are newly offered on January 1, 2021 and thereafter would not be subject to the condition and could

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<sup>98</sup> Proposing Release, *supra* note 14, at 33627. In the Proposing Release, we noted concerns that some investors who prefer to receive shareholder reports in paper and some demographic groups of investors that may be less likely to use the internet might not fully understand the actions they would need to take under the proposed rule to continue to receive their reports in paper. *See id.*

therefore rely on the rule immediately without providing any advance notice through required statements. All other funds may not rely on the rule until they have completed a full two year notice period or until January 1, 2022, whichever comes first.

Although we are eliminating the Initial Statement requirement, we nonetheless believe that it is important that investors receive sufficient notice of the change in transmission method and sufficient opportunity to express their delivery preference. Therefore, the extended transition period is designed to ensure that investors receive disclosures during the extended transition period and to provide funds electing to make use of this optional method and financial intermediaries time to educate investors of the coming change through disclosures on prospectuses and certain other fund documents and through other means. It will also provide funds and financial intermediaries with time to implement any necessary operations and systems changes. Finally, the Commission staff will also use this extended transition period to engage in educational and investor outreach efforts.

We believe these protections will mitigate the various concerns raised by commenters regarding this new optional method for funds to satisfy requirements to transmit shareholder reports.<sup>99</sup> For example, the additional disclosures on shareholder documents about the forthcoming internet availability of reports, as well as other educational efforts undertaken by funds, financial intermediaries, and Commission staff should decrease the possibility that an investor will be unaware of the change in

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<sup>99</sup> See *supra* notes 54–62 and accompanying text.

transmission method and will result in many investors receiving considerably more notice of the change in transmission than they would have under the proposed rule. An investor in a mutual fund, for example, that seeks to begin relying on the rule before January 1, 2022 would be notified about six times compared to the proposal, which did not have an extended transition period and would have required only that one Initial Statement be sent 60 days in advance of a change in transmission method.<sup>100</sup> We believe that the required disclosures, which must be made using plain English principles, also mitigate concerns that some investors might not fully understand what they need to do to continue to receive paper reports. To the extent an investor does not prefer or is unable to access shareholder reports via the internet, he or she can request paper copies of shareholder reports, either on a permanent or *ad hoc* basis.

## **2. Conditions of Rule 30e-3**

New rule 30e-3 provides that a registered management company (and any separate series thereof) or UIT may satisfy its obligation to transmit a report required by rule 30e-1 or rule 30e-2, respectively, if certain conditions set forth in the rule are satisfied.<sup>101</sup> These conditions generally relate to: (a) availability of the report and other materials; (b) notice to investors of the website availability of the report; and (c) delivery of paper copies of materials upon request. Rule 30e-3 also requires transmission of paper

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<sup>100</sup> See *infra* Section II.B.2.d. During the extended transition period, an investor in a mutual fund, for example, that seeks to begin relying on the rule before January 1, 2022 would receive approximately six notices of the upcoming change over a two-year period because each year, investors will receive notice on the summary prospectus or statutory prospectus, as well as the semi-annual and annual report to shareholders.

<sup>101</sup> Rule 30e-3(a). The rule could also be used to satisfy any obligation to transmit an amendment to a report required by rule 30e-1 or 30e-2 by satisfying the same conditions. An amendment to a shareholder report could also be transmitted through other permitted means, such as in paper through the mail.

reports to investors electing a delivery preference to receive them in that format.<sup>102</sup>

Finally, rule 30e-3 will also include a temporary condition relating to form amendments applicable during an extended transition period.<sup>103</sup> The specific provisions of the rule are discussed in more detail in the sections that follow.

These conditions are generally consistent with similar conditions in other rules adopted by the Commission, including its rules regarding the use of a summary prospectus and internet availability of proxy materials.<sup>104</sup> For example, funds offering electronic delivery typically send investors an email notifying them of the online availability of the report or other information, along with a link to the website address where the document is available.<sup>105</sup> Similarly, the Notice required under rule 30e-3 may satisfy shareholder report transmission obligations in part by containing a link to where the document may be accessed on the internet.

Rule 30e-3 provides funds an optional means of satisfying shareholder report transmission obligations under rule 30e-1 and rule 30e-2.<sup>106</sup> Some commenters recommended, however, that the rule be clarified as to its application to UITs, as UITs

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<sup>102</sup> Rule 30e-3(f).

<sup>103</sup> Rule 30e-3(j); *see infra* Sections II.B.2.f, II.E.

<sup>104</sup> *See* rule 498 under the Securities Act (permitting the use of a summary prospectus) [17 CFR 230.498]; rule 14a-16 under the Exchange Act (internet availability of proxy materials) [17 CFR 240.14a-16].

<sup>105</sup> *See* 1995 Release, *supra* note 18. Under rule 498, the requirement to send an electronic copy of a document by email may be satisfied by sending a direct link to the document on the internet; provided that a current version of the document is directly accessible through the link from the time that the email is sent through the date that is six months after the date that the email is sent and the email explains both how long the link will remain useable and that, if the recipient desires to retain a copy of the document, he or she should access and save the document. *See* rule 498(f)(1) under the Securities Act [17 CFR 230.498(f)(1)].

<sup>106</sup> Rule 30e-3(a).

and not the underlying funds held by such UITs are the entities with transmission obligations under rule 30e-2.<sup>107</sup> In response to this recommendation, the final rule clarifies, by use of terminology and otherwise, that the operative conditions of rule 30e-3 extend to a UIT seeking to meet its transmission obligations under rule 30e-2.<sup>108</sup>

**a. Availability of Shareholder Report and Other Materials**

We are adopting generally as proposed, except as indicated below, certain requirements relating to the availability of the shareholder report and other materials for funds relying on rule 30e-3. Specifically, in order to satisfy transmission obligations under rule 30e-1 or rule 30e-2, the current report to shareholders must be publicly accessible, free of charge, at a specified website address.<sup>109</sup> In a change from the proposal, the final rule requires that the report must be accessible from the date the fund transmits the report as required by rule 30e-1 or 30e-2, at least until the date the fund next transmits a shareholder report required by rule 30e-1 or rule 30e-2.<sup>110</sup> This requirement

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<sup>107</sup> See, e.g., CAI Comment Letter I; ICI Comment Letter II.

<sup>108</sup> For example, in a change from the proposal, the rule uses the defined term “Company” to refer collectively to the entities with obligations under rules 30e-1 and 30e-2. See rule 30e-3(h)(1) (defining “Company” to mean a Fund required to transmit a report to shareholders pursuant to rule 30e-1 or a UIT required to transmit a report to shareholders pursuant to rule 30e-2). For purposes of the rule, “Fund” is defined to mean a registered management company and any separate series of the management company. See rule 30e-3(h)(2).

<sup>109</sup> Rule 30e-3(b)(1).

<sup>110</sup> *Id.* Rules 30e-1 and 30e-2 require that a report be transmitted within 60 days after the close of the period covered by the report. See rule 30e-1(c); rule 30e-2(a). Under the proposal, (1) the report would have been required to be accessible on the website from the date the report was transmitted to investors, and (2) the Notice relating to the report would have been required to be transmitted within 60 days of the close of the related reporting period. See proposed rule 30e-3(b), (d). As discussed below, we have modified the final rule to permit the Notice to be delivered up to 70 days after the close of the reporting period. However, we believe the report should nonetheless be available at the same time that reports are transmitted to investors, either in paper or electronically, in order that reports covering a complete year are available on the website at all times.

is intended to provide investors with the opportunity for ongoing access to the shareholder report until, at a minimum, the date that the next report is transmitted.<sup>111</sup>

Funds are not currently required to send first- and third-quarter portfolio holdings information to investors or make that information accessible on their websites. To provide investors with convenient access to the most recent four quarters of portfolio holdings, the rule requires that, in addition to posting the most current shareholder report, the following fund documents must also be posted at the specified website: (1) any report with respect to the fund for the prior reporting period that was transmitted to shareholders of record pursuant to rule 30e-1 or rule 30e-2, if any;<sup>112</sup> (2) the fund's complete portfolio holdings as of the close of the period covered by the current or prior report if the report includes a summary schedule of investments;<sup>113</sup> and (3) for funds other than money market funds and small business investment companies ("SBICs"),<sup>114</sup> the complete portfolio holdings as of the close of the fund's most recent first and third

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<sup>111</sup> See 1995 Release, *supra* note 18 (noting that to satisfy access requirements under the Commission's electronic delivery guidance, "as is the case with a paper document, a recipient should have the opportunity to retain the information or have ongoing access equivalent to personal retention").

<sup>112</sup> Rule 30e-3(b)(1)(ii). If a fund is transmitting a report for its first operational semi-annual period, the fund could rely on rule 30e-3 to transmit that report, despite not having made a prior report publicly accessible, provided that it meets the other required conditions.

<sup>113</sup> Rule 30e-3(b)(1)(iii). In a change from the proposal, this provision provides that a fund's complete portfolio holdings for its most recent second and fourth fiscal quarters must be posted at the specified website if a report required to be posted at the specified website (*i.e.*, a current report to be transmitted pursuant to rule 30e-3 or the report for the prior fiscal period) includes a summary schedule of investments.

<sup>114</sup> SBICs are unique investment companies that operate differently and are subject to a different regulatory regime than other management companies. They are "privately owned and managed investment funds, licensed and regulated by the Small Business Administration ("SBA"), that use their own capital plus funds borrowed with an SBA guarantee to make equity and debt investments in qualifying small businesses." See SBA, SBIC Program Overview, available at <https://www.sba.gov/content/sbic-program-overview>.

fiscal quarters, if any, after the date on which its registration statement became effective, within 60 days after the close of that period.<sup>115</sup> Money market funds and SBICs are expressly excluded from the rule’s posting requirement provisions for fiscal quarter-specific portfolio holdings schedules because money market funds are required currently to post certain portfolio holdings and other information on their websites pursuant to rule 2a-7,<sup>116</sup> and because SBICs are not required to file reports on Form N-Q today and are not required to file reports on Form N-PORT.<sup>117</sup>

The fund’s prior shareholder report and portfolio holdings information for its first and third fiscal quarters are required to be publicly accessible in the same manner and for the same time period as the current shareholder report.<sup>118</sup> We are adopting this requirement to provide investors with easy access to a full year of complete portfolio holdings information in one location (*i.e.*, the website on which the report transmitted under the rule is made accessible), rather than requiring investors to access the fund’s reports on Form N-PORT (or Form N-Q) for those periods separately.

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<sup>115</sup> Rule 30e-3(b)(1)(iv). Under this requirement, the portfolio holdings as of the fiscal quarter following the period of the report will be required to be posted at the specified website when available. For example, a fund with a December 31 fiscal year end wishing to rely on rule 30e-3 to transmit its annual report to shareholders will also be required to ensure that its complete portfolio holdings for the first quarter of the next year is made similarly available within 60 days after the end of the first quarter.

<sup>116</sup> See rule 2a-7(h)(10).

<sup>117</sup> See rule 30b1-9; see also *supra* note 14. Until they are required to submit reports on Form N-PORT, management companies other than SBICs are required to file portfolio schedules as of the end of the first and third fiscal quarters on Form N-Q. See rule 30b1-5. See also Investment Company Reporting Modernization, Investment Company Act Release No. 32936 (Dec. 8, 2017) [82 FR 58731 (Dec. 14, 2017)] (delaying rescission of Form N-Q and certain other effective dates for final rules and other amendments adopted as part of the Reporting Modernization Adopting Release).

<sup>118</sup> Rule 30e-3(b)(1).

To conform the format and content of the portfolio holdings schedules for the first and third quarters to those schedules presented in the fund's shareholder reports for the second and fourth quarters, the rule requires the schedules for the first and third quarters to be presented in accordance with the schedules set forth in §§210.12-12 through 210.12-14 of Regulation S-X, which need not be audited.<sup>119</sup>

In a change from the proposal, the final rule requires that if a report required to be posted includes a summary schedule of investments,<sup>120</sup> the fund's complete portfolio holdings as of the close of the period covered by the report must also be posted at the specified website.<sup>121</sup> In the Proposing Release, we stated that for funds relying on the proposed rule, use of the summary schedule may be unnecessary,<sup>122</sup> and in particular, may be potentially confusing or cumbersome to investors seeking to access the fund's complete portfolio holdings.<sup>123</sup> For these reasons, we proposed amendments to our

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<sup>119</sup> Rule 30e-3(b)(1)(iii)–(iv); 17 CFR 210.12-12 through 12-14. These materials are required to be filed as exhibits to Form N-PORT, regardless of whether the fund intends to rely on the rule to satisfy its shareholder report transmission obligations. *See* Part F of Form N-PORT [referenced in 17 CFR 274.150].

<sup>120</sup> In lieu of providing a complete schedule of portfolio investments as part of the financial statements included in its shareholder report, a fund may provide a summary schedule of portfolio investments. *See, e.g.*, Instruction 1 to Item 27(b)(1) of Form N-1A. Pursuant to rule 12-12B of Regulation S-X, the summary schedule generally must list separately the 50 largest issuers and any other issuer the value of which exceeded one percent of the net asset value of the fund at the close of the period. *See* rule 12-12B, n.3 of Regulation S-X [17 CFR 210.12-12B].

<sup>121</sup> Rule 30e-3(b)(1)(iii). Similarly to the other quarterly portfolio holdings required to be posted to the website, the portfolio holdings for the second and fourth quarters must be presented in accordance with rules 12-12 through 12-14 of Regulation S-X, but need not be audited.

<sup>122</sup> We noted, for example, that a fund currently using the summary schedule as a means to reduce fund printing and mailing costs may decide instead to include a complete portfolio schedule in the shareholder report due to more limited cost savings if the report is posted on its website in reliance on the proposed rule. Proposing Release, *supra* note 14, at 33631.

<sup>123</sup> We noted, for example, that under the proposed rule, an investor that wishes to view the complete portfolio holdings would first receive a notice of the availability of the report, then

registration forms that would have restricted funds relying on proposed rule 30e-3 from providing a summary schedule in their shareholder reports in lieu of a complete schedule.<sup>124</sup> We requested comment, however, as to whether the final rule should restrict funds relying on the proposed rule from using a summary schedule.

One commenter recommended that funds retain the ability to use the summary schedule of investments if they rely on the proposed rule.<sup>125</sup> This commenter noted that it understood the Commission's concern that investors may have to take additional steps to access the complete portfolio schedule, but believed the policy rationale supporting allowing the summary schedule remained the same as when the Commission first implemented the summary schedule.<sup>126</sup>

We continue to be concerned that use of a summary schedule of investments with rule 30e-3 would be potentially confusing or cumbersome for investors seeking access to the complete portfolio schedule. At the same time, we acknowledge that a fund may choose to use a summary schedule for cost considerations or otherwise, and we continue

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take the step to access the report on the fund's website, only to have to take a subsequent step to request or otherwise access the complete schedule. Proposing Release, *supra* note 14, at 33631. Currently, for funds using the summary schedule of investments, unless voluntarily posted on the fund's website, the fund's complete portfolio holdings are only available by telephonic request, or by accessing the fund's report on Form N-CSR for that period on the Commission's EDGAR system. *See, e.g.*, Instruction 1 to Item 27(b) of Form N-1A; Item 6(a) of Form N-CSR.

<sup>124</sup> *See* proposed amendments to Item 27(b) of Form N-1A; Item 24, Instruction 7 of Form N-2; Item 28(a), Instruction 7(i) of Form N-3.

<sup>125</sup> *See* ICI Comment Letter I.

<sup>126</sup> *See id.* The Commission adopted rules permitting the use of a summary schedule of investments in 2004. *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) [69 FR 11244 (Mar. 9, 2004)]. In that release, the Commission stated that the summary schedule was "designed to streamline shareholder reports and help investors to focus on a fund's principal holdings, and thereby better evaluate the fund's risk profile and investment strategy." *Id.* at 11248.

to believe that the summary schedule can help investors focus on a fund's principal holdings and thereby better evaluate the fund's risk profile and investment strategy. The restriction contained in proposed rule 30e-3 effectively would have required a fund using the summary schedule to create and distribute two separate reports to shareholders (*i.e.*, one containing the summary schedule for investors receiving the report in paper, and another containing a complete schedule of portfolio investments for purposes of rule 30e-3).

To avoid the related administrative cost and other burdens associated with such a scenario, and at the same time help to provide investors with easy access to the complete portfolio schedule, the final rule requires, in a change from the proposal, that if a report required to be posted at the specified website (*i.e.*, a current report to be transmitted pursuant to rule 30e-3 or the report for the prior fiscal period) includes a summary schedule of investments, the fund's complete portfolio holdings as of the close of the period covered by the report must also be posted at the specified website.<sup>127</sup> This will provide investors with a year of complete portfolio schedules on the specified website, regardless of whether the fund chooses to utilize a summary schedule of investments in its reports.

Like the schedule of investments required to be included with shareholder reports (and filed as part of reports on Form N-CSR), quarterly schedules of portfolio holdings currently required to be reported on Form N-Q, and monthly schedules of portfolio

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<sup>127</sup> Rule 30e-3(b)(1)(iii).

holdings that will be required to be reported on Form N-PORT,<sup>128</sup> the portfolio holdings schedules specified by the rule are required to be presented in accordance with schedules set forth under Regulation S-X.<sup>129</sup> Accordingly, we anticipate that most funds have established procedures in place to update and monitor the website posting of similar types of portfolio schedule disclosures. These requirements are also intended to provide disclosures that are easily understood and familiar to investors, because these disclosures will contain similar information and be presented in a similar manner as those currently included in shareholder reports.

As proposed, the final rule also requires compliance with certain conditions designed to ensure the accessibility of shareholder reports and other required materials.<sup>130</sup> First, the website address at which the shareholder reports and other required portfolio information are made accessible may not be the address of the Commission's electronic

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<sup>128</sup> See *supra* note 117 and accompanying text. The information reported on Form N-PORT for the third month of each fund's fiscal quarter will be made publicly available 60 days after the end of the fund's fiscal quarter. The Commission does not intend to make public the information reported on Form N-PORT for the first and second months of each fund's fiscal quarter that is identifiable to any particular fund or adviser; however, the Commission may use information reported on Form N-PORT in its regulatory programs, including examinations, investigations, and enforcement actions. Form N-Q will be rescinded May 1, 2020. Larger fund groups will begin submitting reports on Form N-PORT by April 30, 2019, and smaller fund groups by April 30, 2020. See Reporting Modernization Adopting Release, *supra* note 14; Investment Company Reporting Modernization, Investment Company Act Release No. 32936, *supra* note 117.

<sup>129</sup> See Items 1 and 6 of Form N-CSR; Item 1 of Form N-Q; Part F of Form N-PORT.

<sup>130</sup> These requirements are largely similar to the accessibility requirements of rule 498 under the Securities Act, which allows funds to use a summary prospectus, and rule 14a-16 under the Exchange Act, which requires issuers and other soliciting persons to furnish proxy materials by posting these materials on a public website and notifying shareholders of the availability of these materials and how to access them. See rule 14a-16 under the Exchange Act [17 CFR 240.14a-16].

filing system.<sup>131</sup> Second, the materials required to be posted on the website must be presented in a format or formats convenient for both reading online and printing on paper, and persons accessing the materials must be able to permanently retain (free of charge) an electronic copy of the materials in this format.<sup>132</sup> These conditions are designed to ensure that shareholder reports and other information posted on a website pursuant to the rule are user-friendly and allow investors the same ease of reference and retention abilities they would have with paper copies of the information.

The rule includes a safe harbor provision that would allow a fund to continue relying on the rule even if it did not satisfy the posting condition of the rule for a temporary period of time.<sup>133</sup> In order to rely on this safe harbor, a fund must have reasonable procedures in place to ensure that the required materials are posted on the specified website in the manner required by the rule and take prompt action to correct noncompliance with these posting requirements.<sup>134</sup> The rule requires prompt action as soon as practicable following the earlier of the time at which the fund knows or reasonably should have known that the required documents are not available in the

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<sup>131</sup> Rule 30e-3(b)(2). The Commission’s electronic filing system for fund documents is EDGAR. Rule 498 under the Securities Act sets forth a similar requirement. *See* 17 CFR 230.498(b)(1)(v)(A).

<sup>132</sup> Rule 30e-3(b)(3)–(4).

<sup>133</sup> *See* rule 30e-3(b)(5). The rule provides that the conditions in paragraphs (b)(1) through (b)(4) of the rule (*i.e.*, the posting requirements) shall be deemed to be met, notwithstanding the fact that the materials required by paragraph (b)(1) of the rule are not available for a period of time in the manner required by the posting requirements, so long as certain conditions are met. *See id.* Four commenters supported the safe harbor provision of the proposed rule. *See* BlackRock Comment Letter; ICI Comment Letter I, Comment Letter of OppenheimerFunds (Aug. 11, 2015) (“OppenheimerFunds Comment Letter”); State Street Comment Letter. Moreover, we did not receive any comment letters objecting to the safe harbor provision.

<sup>134</sup> *See* rule 30e-3(b)(5)(i) and (ii).

manner prescribed by the posting requirements of the rule. We are adopting this safe harbor because, as we explained in the Proposing Release, there may be times when, due to events beyond a fund's control, such as system outages or other technological issues, natural disasters, acts of terrorism, pandemic illnesses, or other circumstances, a fund may be temporarily not in compliance with the posting requirements of the rule.<sup>135</sup>

One commenter recommended that the final rule clarify that the materials required to be posted could be posted on a third-party website or landing page, similar to what is allowed under the current process for notice and access for proxy materials.<sup>136</sup> The rule as proposed, and as adopted today, does not require that the website be maintained by any particular party. Instead, the rule requires that the required materials be posted at the website specified in the Notice.<sup>137</sup> Similar flexibility regarding the website on which required materials must be posted exists in our current rules relating to the use of a summary prospectus.<sup>138</sup>

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<sup>135</sup> Compare rule 498(e)(4) under the Securities Act (providing a similar safe harbor under the summary prospectus rule for the same reasons) [17 CFR 230.498(e)(4)], with rule 30e-3(b)(5). Providing for this safe harbor by rule may obviate the need to provide exemptive relief by order from the rule's conditions under catastrophic circumstances, as from time to time we have done. *See, e.g.*, Exchange Act Release No. 81760 (Sept. 28, 2017) [82 FR 46335 (Oct. 4, 2017)] (exemptive relief for individuals and entities affected by Hurricanes Harvey, Irma, or Maria); Securities Act Release No. 10416 (Sept. 27, 2017) [82 FR 45722 (Oct. 2, 2017)] (Regulation Crowdfunding and Regulation A relief and assistance for individuals and entities affected by Hurricanes Harvey, Irma, or Maria).

<sup>136</sup> *See* SIFMA Comment Letter.

<sup>137</sup> *See* rule 30e-3(b)(1).

<sup>138</sup> *See* rule 498(e)(1) under the Securities Act (requiring in the case of the summary prospectus, that the required documents be available at the website specified on the cover page or beginning of the summary prospectus) [17 CFR 230.498(e)(1)].

## **b. Notice**

Rule 30e-3 requires funds relying on the rule with respect to an investor to send a paper Notice notifying the investor of the availability of the report.<sup>139</sup> The requirements for a Notice largely mirror the notice requirements under the Commission's rules mandating the posting of proxy materials online.<sup>140</sup> We are adopting the Notice requirement generally as proposed, but with certain modifications in response to issues raised by commenters. In particular, the final rule permits the Notice to include additional content beyond what would have been permitted under the proposed rule.

While most commenters focused on technical aspects of the Notice, one commenter encouraged the Commission to consider eliminating the Notice requirement altogether, which the commenter believed would lead to additional cost savings and environmental benefits.<sup>141</sup> Another commenter recommended that the Notice be sent annually, rather than semi-annually, and that the final rule permit the Notice to be sent to investors 90 days after the fiscal year end rather than 60 days as proposed.<sup>142</sup> A third commenter recommended requiring that the Notice be sent by email.<sup>143</sup> Finally, another commenter recommended that the rule allow investors to elect to receive notices by email.<sup>144</sup>

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<sup>139</sup> See rule 30e-3(c). As discussed above, funds relying on the rule to satisfy delivery obligations with respect to investors who currently receive paper shareholder reports would not have to rely on rule 30e-3 with respect to those shareholders who have elected to receive reports electronically. See *supra* note 18 and accompanying text.

<sup>140</sup> See rule 14a-16 under the Exchange Act [17 CFR 240.14a-16].

<sup>141</sup> See BlackRock Comment Letter.

<sup>142</sup> See OppenheimerFunds Comment Letter.

<sup>143</sup> See State Street Comment Letter.

<sup>144</sup> See Simpson Thacher Comment Letter.

We continue to believe that it is important for all investors to receive the Notice, as it will contemporaneously alert them to the availability of a shareholder report online and will provide them with information on how to obtain a paper copy of the report. Therefore, we are adopting as proposed the Notice requirements as to format (*i.e.*, the Notice must be paper).<sup>145</sup> We are requiring the Notice to be in paper because, even though an investor may have provided an email address (*e.g.*, as part of opening an account), there may be instances where that investor provided his or her email address for certain limited purposes without necessarily opting to receive shareholder reports or notices of reports through email.

In a change from the proposal, the final rule extends from 60 days to 70 days the period of time in which the Notice must be sent to investors after the close of the period covered by the related report.<sup>146</sup> We proposed a 60-day period because, as we explained in the Proposing Release, that is the period currently required for transmission of reports, whether in paper or electronically.<sup>147</sup> After consideration of the comments we received, including comments recommending that we permit the Notice to accompany other important account materials,<sup>148</sup> we believe a 70-day period will accommodate such changes to the Notice in the final rule and achieve additional cost savings and operational efficiencies.

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<sup>145</sup> Rule 30e-3(c).

<sup>146</sup> *Id.*

<sup>147</sup> See Proposing Release, *supra* note 14; rules 30e-1(c), 30e-2(a).

<sup>148</sup> See, *e.g.*, Comment Letter of Charles Schwab Investment Management, Inc. (Aug. 12, 2015) (“Schwab Comment Letter”); Dreyfus Comment Letter.

First, in a change from the proposal and as discussed below, we are permitting the Notice to accompany other materials, including a shareholder's account statement. Because shareholder reports are generally prepared at or shortly before the end of the 60 days following the close of the reporting period, and account statements (whether monthly, quarterly, or annual) are typically prepared and mailed within a few days after the close of the applicable month end, a Notice would generally not be able to accompany an account statement mailing if the Notice is sent out within 60 days following the close of the reporting period.<sup>149</sup>

Second, as also discussed below, we are permitting the Notice to include content from the shareholder report, and also requiring any such Notices to be filed with the Commission as part of a fund's report on Form N-CSR. Extending the time period to 70 days permits funds additional time to prepare Notices after finalizing their related shareholder reports, and matches up with the 70-day filing period for reports on Form N-CSR.<sup>150</sup>

*i. Information that Must be Included in the Notice*

As under the proposal, the Notice must be in plain English so that investors can easily understand it.<sup>151</sup> The final rule also requires funds to include certain statements

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<sup>149</sup> For example, pursuant to rule 30e-1, a fund would be required to transmit a report for a period ended March 31 by May 30. Permitting the fund 70 days to transmit a Notice would enable the fund, if it so chose, to combine it with the investor's May account statement mailing.

<sup>150</sup> Reports on Form N-CSR must be filed within 10 days after the shareholder report is sent to shareholders, and the shareholder report must be sent within 60 days after the close of the period covered by the report. See rule 30b2-1(a) [17 CFR 270.30b2-1(a)]; rule 30e-1(c).

<sup>151</sup> Rule 30e-3(c)(1), (d).

and information in the Notice, if applicable, and permits funds to include certain additional information, generally as follows:

- as was proposed, the Notice must contain a prominent legend in bold-face type stating that an important report to shareholders is available online and in paper by request, and in a change from the proposal, the Notice may include information identifying the fund, its sponsor (including any investment adviser or sub-adviser to the fund), a variable annuity or variable life insurance contract or insurance company issuer thereof, or a financial intermediary through which shares of the fund are held;<sup>152</sup>
- as was generally proposed (but with certain modifications), the Notice must state that the report contains important information about the fund, including as proposed its portfolio holdings and, in a change from the proposal, its financial statements;<sup>153</sup>
- in a change from the proposal, the Notice may include a brief listing of other types of information contained in the report;<sup>154</sup>
- as was proposed, the Notice must state that the report is available on the internet or, upon request, by mail, and encourage shareholders to access and review the report;<sup>155</sup>

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<sup>152</sup> Rule 30e-3(c)(1)(i). We have modified this requirement to provide more flexibility to funds in recognition of the fact that investors can acquire interests in funds through a variety of distribution channels.

<sup>153</sup> Rule 30e-3(c)(1)(ii).

<sup>154</sup> *Id.*

<sup>155</sup> Rule 30e-3(c)(1)(iii).

- as was proposed, the Notice must include the website address where the shareholder report and other required portfolio information is posted (*i.e.*, the “landing page” to those materials), but in a change from the proposal, the final rule eliminates the proposed requirement that the Notice include the website address for individual reports;<sup>156</sup>
- as was generally proposed (with certain modifications), the Notice must include a toll-free (or collect) telephone number to contact the fund or the shareholder’s financial intermediary<sup>157</sup> and (A) provide instructions describing how a shareholder may request, at no charge, a paper or email copy of the shareholder report or other materials required to be made accessible online, and an indication that the shareholder will not receive a paper copy of the report unless requested,<sup>158</sup> (B) explain that the shareholder can at any time in the future elect to receive paper reports and provide instructions describing how a shareholder may make that election (*e.g.*, by contacting the fund or the shareholder’s financial intermediary),<sup>159</sup> and (C) if applicable, include instructions describing how a

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<sup>156</sup> Rule 30e-3(c)(1)(iv). The website address must be specific enough to lead investors directly to the documents that are required to be posted online under the rule. The website address could be a central site with prominent links to each document, but could not be a home page or section of the website other than where the documents are posted. In addition to the website address, the Notice may contain any other equivalent method or means to access the documents. *See id.*

<sup>157</sup> Rule 30e-3(c)(1)(v).

<sup>158</sup> Rule 30e-3(c)(1)(v)(A).

<sup>159</sup> Rule 30e-3(c)(1)(v)(B).

- shareholder can elect to receive shareholder reports or other documents and communications by electronic delivery;<sup>160</sup>
- in a change from the proposal, the Notice may include other methods by which a shareholder can contact the fund or the shareholder’s financial intermediary (*e.g.*, by email or through a website) and may include information needed to identify the shareholder;<sup>161</sup> and
  - in a change from the proposal, the Notice is not required to be accompanied by a reply card.<sup>162</sup>

We requested comment on whether the proposed disclosures in the Notice, including the required statement that the report contains important information about the fund, were appropriate. One commenter suggested that the content of the Notice be enhanced to require disclosures relating to “important information, such as [f]und performance and portfolio manager insights,” noting that enhanced disclosures could encourage investors to access their shareholder reports.<sup>163</sup> We agree that such additional disclosures could encourage investors to access their reports, so we have modified and expanded the proposed required statement in the Notice that the report to shareholders contains important information about the fund, including its portfolio holdings, to add a

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<sup>160</sup> Rule 30e-3(c)(1)(v)(C).

<sup>161</sup> Rule 30e-3(c)(2). For example, this information could include a control number unique to that shareholder.

<sup>162</sup> Although the final rule does not require a reply card as a method of communication, a fund could choose to use reply cards.

<sup>163</sup> See Comment Letter of Fidelity Investments (Aug. 10, 2015) (“Fidelity Comment Letter I”); *see also* Investment Advisory Committee Recommendation; Broadridge Meeting Memo I.

reference to the fund's financial statements.<sup>164</sup> In addition, the final rule permits the statement to also include a brief listing of other types of information contained in the report. For example, the statement could also note that the report contains fund performance and portfolio manager insights as suggested by the commenter, or other types of information such as expense information.<sup>165</sup>

Some commenters recommended modifications to the proposed website address requirements. One commenter suggested that the rule not require the Notice to include a specific website address, which would allow the industry more flexibility in implementing the rule.<sup>166</sup> Another commenter suggested that the rule not require website addresses for individual reports.<sup>167</sup> That commenter stated that: (1) such a requirement was too complex and costly to administer, as new reports are posted and old ones are taken down; (2) website addresses would be long and difficult to key in from the paper Notice; and (3) such requirement was inconsistent with our rules regarding the internet availability of proxy materials, which only requires a website address for a landing page and with which investors may already be familiar.

After consideration of these comments, we have determined to eliminate from the final rule the proposed requirement that the Notice include the website address for

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<sup>164</sup> Rule 30e-3(c)(1)(ii). Similar statements are required for other documents. For example, Form N-1A requires the back cover page of the statutory prospectus of an open-end fund to include a statement to the effect that the fund's annual report contains a discussion of the market conditions and investment strategies that significantly affected the fund's performance during its last fiscal year. *See* Item 1(b)(1) of Form N-1A.

<sup>165</sup> Rule 30e-3(c)(1)(ii). As discussed below, the final rule separately permits the Notice to include content from the related shareholder report. *See infra* Section II.B.2.b.ii.

<sup>166</sup> *See* Fidelity Comment Letter I.

<sup>167</sup> *See* SIFMA Comment Letter I.

individual reports. We agree with those commenters suggesting that such a requirement could result in unnecessary administrative burdens, and believe that limiting the website link to the landing page, where the shareholder report and other required materials are available, meets our objective of directing investors to the shareholder report in an easily accessible manner. The address used must be specific enough to lead investors directly to the documents that are required to be accessible under the rule's conditions, but may be a central site with prominent links to each document. The website may not be the home page or section of the website other than on which the documents are posted.<sup>168</sup> Thus, an investor must be able to navigate from the landing page to each of the required documents with a single click or tap.

To access their reports, investors will be required to key in the website address provided in the Notice. Some investors could have difficulty accessing their reports if, for example, the address to the landing page is made up of a long string of unrelated or special characters. Short and intuitive website links to the landing page and other innovative solutions could mitigate this problem.

In a change from the proposal, the final rule also provides that the Notice may include, in addition to a website address, other equivalent methods or means to facilitate shareholder access to the shareholder report and other required materials.<sup>169</sup> Such methods or means could include, for example, inclusion of a Quick Response Code (QR code) or similar means to access the required website address or link.<sup>170</sup>

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<sup>168</sup> Rule 30e-3(c)(1)(iv).

<sup>169</sup> *Id.*

<sup>170</sup> A QR code is a two-dimensional barcode containing information that is machine-readable. For example, some smartphones could scan a QR code with information of a specific

We proposed that the Notice not only be required to include a toll-free telephone number that an investor can use to notify the fund that he or she wishes to receive paper reports in the future, but also a reply form that is pre-addressed with postage-paid as an alternative means by which the investor can notify the fund of his or her preference.<sup>171</sup> Commenters generally opposed the reply card requirement, asserting that reply cards have a low response rate<sup>172</sup> that does not justify their cost.<sup>173</sup> Commenters urged that a toll-free telephone number would be an equally effective means for an investor to express his or her preference and would be more cost-effective than a reply card.<sup>174</sup>

After considering the comments we received, we have determined not to require funds to include a reply card.<sup>175</sup> We have been persuaded by commenters that the low

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Uniform Resource Locator (“URL”) and then be directed to that website. Although the final rule eliminates the requirement that the Notice include the direct website address for the report itself, a fund, could, pursuant to this provision, choose to include a link that takes an investor directly to the report.

<sup>171</sup> See proposed rule 30e-3(d)(1)(vi). As proposed, the reply card would have been required to include the information that the fund would need to identify the investor.

<sup>172</sup> See ICI Comment Letter I (estimating return rates as low as 2%).

<sup>173</sup> One commenter indicated that eliminating reply cards would reduce aggregate printing and mailing costs associated with rule 30e-3 from \$127 million per mailing (of Notices or Initial Statements) to between \$81 million (if funds elect to use postcards) and \$118 million (if funds elect to use envelopes), which represents a reduction of 7% to 36%. See ICI Comment Letter I.

Another commenter indicated that including a reply form that is pre-addressed with postage paid would cost approximately \$1,325,000 in the aggregate per year. See T. Rowe Price Comment Letter I.

Another commenter estimated cost savings from the elimination of reply cards to be approximately \$10 million. See Broadridge Meeting Memo II.

<sup>174</sup> See, e.g., Comment Letter of Dechert LLP (Aug. 12, 2015) (“Dechert Comment Letter”); ICI Comment Letter I; Comment Letter of Mediant Communications (Aug. 12, 2015) (“Mediant Comment Letter”); SIFMA Comment Letter; T. Rowe Price Comment Letter I; Capital Research Comment Letter I.

<sup>175</sup> See rule 30e-3(c)(1)(v).

response rates experienced from this means of communication coupled with the expense associated with this method do not justify the inclusion of a reply card.

However, the final rule permits the Notice to include additional means by which an investor can contact the fund or the investor's financial intermediary.<sup>176</sup> Because funds and financial intermediaries have extensive direct experience with the types of communication methods preferred by their investors, we believe that the rule should provide flexibility to permit additional methods of communication, and we encourage the inclusion of additional means besides the required toll-free (or collect) telephone number, such as email addresses, dedicated webpages, etc. To further facilitate the use of other means of communication, the final rule permits the Notice to include any information needed to identify the shareholder so that shareholders may express their shareholder report transmission preference with ease.<sup>177</sup> This information could include, for example, control numbers, account numbers, etc. As noted earlier, if a fund were to choose to include this information in a Notice, the fund should take appropriate measures to protect this information just as funds do today regarding other mailings, like account statements, that may contain sensitive information.

In providing the required toll-free (or collect) telephone number and other means, we encourage the use of methods that allow shareholders to express their preference as

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<sup>176</sup> See rule 30e-3(c)(2). In lieu of the reply card, some commenters suggested that the rule permit flexibility in how shareholders could express their delivery preference and/or require alternative means of shareholders expressing this preference, such as by email (*see, e.g.*, Dechert Comment Letter; State Street Comment Letter) or fax (*see, e.g.*, State Street Comment Letter). See Dechert Comment Letter; State Street Comment Letter; BlackRock Comment Letter; CAI Comment Letter I, ICI Comment Letter I; MFS Comment Letter; SIFMA Comment Letter.

<sup>177</sup> See rule 30e-3(c)(2).

conveniently as possible, such as by limiting the need for investors to speak with multiple representatives or navigate through multiple telephone menus or webpages, or otherwise minimizing the steps necessary to express a preference. To record investor preferences, a fund might, for example, provide an automated system, live representatives, a toll-free (or collect) telephone number that is dedicated solely for this purpose, or a prompt for investors when they access their shareholder account information online, such as through the use of a pop-up.

In light of the principle that effective rulemaking should not end with rule adoption, the staff will review, and report to the Commission on, the implementation of rule 30e-3 to evaluate whether funds are employing processes that effectively facilitate investor election of delivery preferences, including the ease through which investors may elect delivery preferences, taking into account, among other things, the continued development of delivery mechanisms and the evolving array of retail investor preferences. For example, the staff's review would include an evaluation of the number of investors who have elected paper delivery, whether such election is on an ad hoc basis or permanent basis, the means through which the election was made (telephone, online or otherwise), and the overall investor experience relating to the election of delivery preferences. The purpose of such review would be to better inform the Commission and the staff on whether funds are implementing processes that effectively facilitate investors making elections consistent with investors' preferences and on whether any further action should be taken to facilitate investor election of delivery preferences.

Some commenters recommended that the final rule permit the Notice to include disclosures informing investors how they can affirmatively consent to electronic delivery

of shareholder reports and other documents.<sup>178</sup> After further consideration of these comments, we believe that the Notice should provide the recipient investor with information on how to obtain shareholder reports in the investor’s preferred format (*i.e.*, in paper or by email via electronic delivery). Therefore, the final rule requires the Notice to include, if applicable, instructions describing how an investor can elect to receive shareholder reports or other documents or communications by electronic delivery.<sup>179</sup>

Finally, in a change from the proposal, the final rule permits a Notice to include pictures, logos, or similar design elements so long as the design is not misleading and the information is clear.<sup>180</sup> A similar provision exists in the rules governing the content of the Notice of Internet Availability of Proxy Materials.<sup>181</sup> While we did not receive any comments that suggested this modification to the proposal,<sup>182</sup> we believe that this provision promotes our general goal of highlighting the Notice for investors’ attention by permitting the addition of content that alerts investors to the Notice itself, and by extension the shareholder report, without obscuring important information contained in the Notice.

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<sup>178</sup> See, *e.g.*, ICI Comment Letter I; OppenheimerFunds Comment Letter; SIFMA Comment Letter.

<sup>179</sup> See rule 30e-3(c)(1)(v)(C). This provision would require, if applicable, instructions not only on how to elect electronic delivery of regulatory documents like a shareholder report, but on how to elect electronic delivery of other types of communications (*e.g.*, announcements, news articles, and other “investor relations” communications).

<sup>180</sup> See rule 30e-3(c).

<sup>181</sup> See rule 14a-16(g)(3) under the Exchange Act [17 CFR 240.14a-16(g)(3)]; *see also* rule 421(d)(3) under the Securities Act [17 CFR 230.421(d)(3)].

<sup>182</sup> While not expressly recommending this modification to the proposal in its comment letters, one commenter designed a sample “enhanced notice” that included design elements such as pictures and logos that would be consistent with this modification. See Broadridge Meeting Memo I.

ii. *Option to Include Content from Report in Notice*

The Notice is designed to alert investors to the availability of a shareholder report online and to provide investors with information on how to obtain paper reports if that is their preference. As we noted in the Proposing Release, we believe it is important to limit the total information included in the Notice, in order to ensure that information regarding the availability of a shareholder report does not become obscured. Therefore, we proposed that the rule limit the information contained in the Notice to the information required by the rule, but requested comment on whether we should require that the Notice not contain any additional information other than that specified by the rule.<sup>183</sup>

In addition to the comments described above regarding types of additional information that should be permitted in the Notice (*e.g.*, instructions on how to elect electronic delivery of documents), we received comments recommending that the final rule should expand the legend in the Notice to include additional information about the fund.<sup>184</sup> One commenter recommended that the Notice should require in a standardized format certain additional content found in the report (for example, a fund's top ten holdings, performance line graph, total return performance, expense information, and/or portfolio composition).<sup>185</sup> Other commenters recommended that the Commission should

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<sup>183</sup> See proposed rule 30e-3(d)(3).

<sup>184</sup> See, *e.g.*, Fidelity Comment Letter I (recommending that the legend be expanded to alert shareholders that the report contains information such as fund performance and holdings information and portfolio manager's insights).

<sup>185</sup> See Broadridge Meeting Memo I (recommending an "enhanced notice," which this commenter suggests could be preceded by a Commission pilot to "accelerate benefits and be made available to any and all investment companies that wish to use [the enhanced notice]"); Broadridge Meeting Memo II.

explore the development of a document more akin to a “summary shareholder report” that incorporates layered disclosure principles.<sup>186</sup>

After consideration of these comments, we believe that permitting—but not requiring as a condition to use this optional method—the inclusion of certain additional information in the Notice is appropriate so long as it is limited to content from the shareholder report for which Notice is being given.<sup>187</sup> We have modified the final rule accordingly to permit registered management companies (but not UITs) to include content from the report in a Notice.<sup>188</sup> To avoid obscuring the information required to be in the Notice (*i.e.*, the required legends, website address, etc.), under the final rule, additional content from the shareholder report included in the Notice must be placed after the information specified by paragraph (c)(1) of the rule.<sup>189</sup>

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<sup>186</sup> See Comment Letter of Consumer Action (Dec. 1, 2017); see also Investment Advisory Committee Recommendation (“[T]he [Investor Advisory Committee] recommends that the Commission explore development of a summary disclosure document for annual shareholder reports that incorporates key information from the report along with prominent notice regarding how to obtain a copy of the full report. The summary document should be designed to be delivered either by mail or by email, depending on the investors’ delivery preferences. It should also incorporate a layered disclosure approach, including the ability of those getting the document electronically to click through to more detailed disclosure on a particular topic.”).

<sup>187</sup> Similarly, in cases where shareholder reports are delivered electronically via email, we note that such emails would not be precluded from including content from the related report under the Commission’s electronic delivery guidance. See 1995 Release, *supra* note 18; 1996 Release, *supra* note 18; 2000 Release, *supra* note 18.

<sup>188</sup> See rule 30e-3(c)(3). UITs subject to rule 30e-2 are principally separate accounts offering variable annuities and variable life insurance policies that do not prepare or transmit shareholder reports for the separate accounts themselves. Rather, under rule 30e-2 they are required to transmit the shareholder reports of the underlying funds in which they invest, which may be numerous and in many cases are unaffiliated. Because of this two-tier structure, the final rule limits the provision permitting inclusion of additional content from shareholder reports to reports required by rule 30e-1.

<sup>189</sup> *Id.*

We are persuaded that permitting additional flexibility regarding the content of the Notice is appropriate, and may result in funds crafting Notices that convey to investors certain key content from the shareholder report, while also encouraging investors to access the shareholder report for more detailed information.<sup>190</sup> Information contained in shareholder reports that we believe may be communicative and appropriate—albeit not required—for inclusion in the Notice could be, for example: one or more graphical representations of holdings; a list of the fund’s top holdings (*e.g.*, top five or ten holdings); performance information; the type of fund; a brief statement of the fund’s investment objectives and strategies; the expense ratio or an expense example; and the name and title of the fund’s portfolio manager(s).

Providing funds the flexibility to include in the Notice certain information from the shareholder report is intended to allow them to identify and provide content they

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<sup>190</sup> This approach draws from certain aspects of the Investor Advisory Committee Recommendation. For example, the Investor Advisory Committee recommended that “the Commission explore development of a summary disclosure document for annual shareholder reports that incorporates key information from the report along with prominent notice regarding how to obtain a copy of the full report.” *See* IAC Recommendation, *supra* note 40. While the final rule does not require a summary disclosure document, and does not mandate any particular content, it permits funds to add to the Notice content from the shareholder report and similarly requires that the Notice include a prominent legend regarding how to obtain a copy of the report.

Additionally, the Investor Advisory Committee recommended that “the Commission engage in investor testing of the proposed [summary document and layered] disclosure, or encourage testing by industry members, to ensure that the proposed approach delivers the expected benefits of reducing costs for funds and distributors without sacrificing disclosure quality.” *Id.*

Consistent with the Investor Advisory Committee Recommendation, we note that the Fund Retail Investor Experience and Disclosure Request for Comment, as well as investor testing of disclosure alternatives, are two key initiatives the Commission is using to assess our current disclosure framework for funds and to consider possible changes to that framework. *See* Disclosure Request for Comment, *supra* note 20. Regarding this investor testing, the Commission’s Office of the Investor Advocate (“OIAD”) is engaging in investor testing through its Policy Oriented Stakeholder and Investor Testing for Innovative and Effective Regulation (“POSITIER”) initiative. *See* Disclosure Request for Comment, *supra* note 20.

believe is particularly informative to their investors. Funds that decide to include additional information from the report in their Notices generally should consider the appropriateness of such information, the benefits to investors, and the cost impacts associated with adding information to the Notice. When including content from the report in a Notice, funds have obligations with respect to the antifraud provisions of the federal securities laws.<sup>191</sup> In this regard, inclusion of only certain elements of performance information required to be included in reports raises certain considerations. If a fund chooses to include in the Notice performance information from the report, the content should include all information required with respect to the particular performance item in accordance with applicable presentation requirements.<sup>192</sup>

While the final rule does not prescribe a specific page limit, funds generally should limit optional content to a relatively brief amount to avoid detracting from the primary purpose of the Notice and to encourage investors to access the shareholder report itself. As discussed further below, we are requiring funds that choose to transmit Notices with additional information from the shareholder report to file such Notices as part of their reports on Form N-CSR.<sup>193</sup> As discussed above, we believe it is important that information regarding the availability of a shareholder report does not become obscured, and to address this concern, we are requiring that the information that is required to be in

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<sup>191</sup> *See, e.g.*, Section 17(a) under the Securities Act [15 U.S.C. 77q]; Section 10(b) under the Exchange Act [15 U.S.C. 78j(b)] and rule 10b-5 thereunder [17 CFR 240.10b-5]; and Section 34(b) of the Investment Company Act [15 U.S.C. 80a-33(b)].

<sup>192</sup> For example, a fund could include either the complete line graph or complete performance table required by the applicable form (*see, e.g.*, Item 27(b)(7)(ii) of Form N-1A requiring an open-end management company's report to include (A) a line graph, and (B) annual total returns table).

<sup>193</sup> *See* Item 1(b) of Form N-CSR.

the Notice (*i.e.*, the required legends, website address, etc.) must be presented before any additional content from the shareholder report is included in the Notice to ensure that the required legends and website address are positioned prominently in the Notice.

*iii. Materials that May Be Combined With or Accompany the Notice*

To further ensure that the information contained in the Notice would not be obscured, the rule as proposed would have prohibited the Notice from being incorporated into or combined with another document,<sup>194</sup> or sent along with other shareholder communications (with the exception of the fund's current summary prospectus, prospectus, statement of additional information, or Notice of Internet Availability of Proxy Materials under rule 14a-16 under the Exchange Act).<sup>195</sup> We received a number of comments on this aspect of the proposed rule, with commenters requesting additional flexibility in what materials or documents could be combined with, or accompany, the Notice.

Some commenters recommended that the final rule permit the use of a single, consolidated Notice for funds within the same fund complex or for funds held in the same intermediary contract or account.<sup>196</sup> Commenters noted that such an approach would have the benefits of increasing the likelihood of investor review<sup>197</sup> and reductions in costs.<sup>198</sup> One commenter recommended that a consolidated Notice be permitted for funds

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<sup>194</sup> See proposed rule 30e-3(d)(2).

<sup>195</sup> See proposed rule 30e-3(d)(4).

<sup>196</sup> See CAI Comment Letter I; Fidelity Comment Letter I; ICI Comment Letter I; OppenheimerFunds Comment Letter; Schwab Comment Letter.

<sup>197</sup> See ICI Comment Letter I.

<sup>198</sup> See ICI Comment Letter I; OppenheimerFunds Comment Letter.

from different fund complexes,<sup>199</sup> while another recommended that the final rule permit consolidated Notices for funds held through a variable insurance product.<sup>200</sup>

Some commenters recommended that the final rule permit the Notice to be incorporated into the summary prospectus and account statements, stating it would provide additional visibility due to investor interest in those documents.<sup>201</sup> A number of commenters recommended that other materials should be permitted to accompany the Notice, including account statements,<sup>202</sup> new account applications,<sup>203</sup> new account welcome kits,<sup>204</sup> notices from other funds with the same fiscal year end,<sup>205</sup> dividend checks,<sup>206</sup> transaction confirmations,<sup>207</sup> and in the case of variable insurance products, the variable annuity contract or life insurance policy and the related contract prospectuses or statements of additional information.<sup>208</sup> Commenters stated that investors would be more

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<sup>199</sup> See Fidelity Comment Letter I.

<sup>200</sup> See CAI Comment Letter I. This commenter also recommended that the consolidated Notice be permitted to specify either a single website or multiple websites at which required documents were available for different funds.

<sup>201</sup> See, e.g., Capital Research Comment Letter I; State Street Comment Letter.

<sup>202</sup> See, e.g., Dreyfus Comment Letter; ICI Comment Letter I; Invesco Comment Letter; MFS Comment Letter; OppenheimerFunds Comment Letter; Schwab Comment Letter; T. Rowe Price Comment Letter I.

<sup>203</sup> See, e.g., ICI Comment Letter I.

<sup>204</sup> See, e.g., ICI Comment Letter I; Invesco Comment Letter; MFS Comment Letter; OppenheimerFunds Comment Letter; T. Rowe Price Comment Letter I.

<sup>205</sup> See, e.g., Capital Research Comment Letter I; ICI Comment Letter I.

<sup>206</sup> See, e.g., ICI Comment Letter I; Invesco Comment Letter; MFS Comment Letter; OppenheimerFunds Comment Letter; T. Rowe Price Comment Letter I.

<sup>207</sup> See, e.g., T. Rowe Price Comment Letter I.

<sup>208</sup> See, e.g., CAI Comment Letter I; ICI Comment Letter I.

likely to read Notices bundled with other materials,<sup>209</sup> and that additional cost savings would result.<sup>210</sup>

After consideration of the comments, we have modified the final rule to permit the use of consolidated Notices.<sup>211</sup> In addition to reduced costs, we believe that a single, consolidated Notice could be effective in alerting a shareholder to the online availability of shareholder reports for multiple funds. We note that if a consolidated Notice is used, a fund must draft the Notice to incorporate all elements required by the rule with respect to each report covered by the Notice. For example, if the website address for one report covered by the Notice does not include the materials required for one or more other funds covered by the Notice, then additional website addresses would be required so that all required materials for the funds covered by the Notice are made appropriately accessible. In such case, we believe it should be clear to investors which website address is associated with each report covered by the consolidated Notice.

We have also modified the final rule to permit the Notice to accompany additional materials beyond a current summary prospectus, statutory prospectus, statement of additional information, or Notice of Internet Availability of Proxy Materials. As with consolidated Notices, we believe that permitting Notices to accompany other documents not only could result in additional cost savings (*i.e.*, reduced mailing expenses), but could be effective in alerting a shareholder to the Notice if the other documents are likely to be read by investors. Under the final rule, a Notice may accompany one or more Notices for

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<sup>209</sup> See, e.g., ICI Comment Letter I; MFS Comment Letter; T. Rowe Price Comment Letter I.

<sup>210</sup> See, e.g., Dreyfus Comment Letter; ICI Comment Letter I; T. Rowe Price Comment Letter I.

<sup>211</sup> See rule 30e-3(c)(4).

other funds.<sup>212</sup> In the case of a fund that is available as an investment option in a variable annuity or variable life insurance contract, the Notice may accompany the contract or the contract's statutory prospectus and statement of additional information.<sup>213</sup> We have also modified the final rule to permit the Notice to accompany the investor's account statement. Like consolidated Notices, we believe that permitting Notices to accompany account statements could result in additional cost savings. Moreover, we believe that an investor who is likely to read account statements would also be likely to become aware of the accompanying Notice and the content therein.<sup>214</sup> We believe that the Notice would not be unduly obscured if accompanied by these materials because it is accompanying materials personalized to the receiver,<sup>215</sup> but decline to permit the Notice to accompany other materials suggested by commenters.

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<sup>212</sup> See rule 30e-3(c)(5)(i), (ii). Under the final rule, a Notice for a fund may accompany a summary prospectus, statutory prospectus or statement of additional information for other funds because (1) rule 498 under the Securities Act does not prohibit a summary prospectus for one fund from accompanying a summary prospectus, statutory prospectus or statement of additional information for another fund, and (2) the final rule permits the Notice for one fund to accompany a Notice for another fund, and for a Notice to incorporate or combine one or more other Notices. See rule 498 under the Securities Act [17 CFR 230.498]; rule 30e-3(c)(5)(i), (ii).

<sup>213</sup> Rule 30e-3(c)(5)(iii). Thus, Notices for underlying funds offered under a contract may (either as individual Notices or as a consolidated Notice) accompany (1) the contract, (2) the contract's statutory prospectus and statement of additional information, and (3) summary prospectuses, statutory prospectuses, statements of additional information, and Notices of Internet Availability of Proxy Materials for one or more underlying funds. See also rule 498(c) under the Securities Act (permitting, under certain conditions, a summary prospectus for a fund that is available as an investment option in a variable annuity or a variable life insurance contract to be bound together with the statutory prospectus for the contract and summary prospectuses and statutory prospectuses for other investment options available in the contract) [17 CFR 230.498(c)].

<sup>214</sup> Rule 30e-3(c)(5)(iv).

<sup>215</sup> See, e.g., rule 498(c) under the Securities Act [17 CFR 230.498(c)].

*iv. Householding*

Similar to the Commission's rules on householding prospectuses, shareholder reports, and proxy statements and information statements,<sup>216</sup> as proposed, final rule 30e-3 allows one Notice to be sent to shareholders who share an address so long as the conditions set forth in rule 30e-1(f), rule 30e-2(b), rule 14a-3(e) under the Exchange Act, or rule 14c-3(c) under the Exchange Act are satisfied.<sup>217</sup> We received no comments on this requirement, and are adopting the requirement as proposed.

*v. Requirement to File Form of Notice*

We proposed to require that a form of the Notice be filed with the Commission not later than 10 days after the Notice is sent to shareholders.<sup>218</sup> We anticipated that this filing would have occurred on a new EDGAR submission type that would have been created by the Commission, and stated our belief that the Notice filing requirement would have assisted us in overseeing compliance with the rule.

Commenters generally opposed filing the Notice semi-annually as part of a separate filing. Some commenters recommended that the Notice be filed instead as an

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<sup>216</sup> See, e.g., rule 154 under the Securities Act (permitting householding of prospectuses) [17 CFR 230.154]; rules 30e-1(f) and 30e-2(b) (permitting householding of shareholder reports); rules 14a-3(e) and 14c-3(c) under the Exchange Act (permitting householding of annual reports to security holders, proxy statements and information statements, and Notices of Internet Availability of Proxy Statements) [17 CFR 240.14a-3(e); 17 CFR 240.14c-3(c)]. See generally *Delivery of Disclosure Documents to Households, Investment Company Act Release No. 24123* (Nov. 4, 1999) [64 FR 62540 (Nov. 16, 1999)] (adopting householding rules with respect to prospectuses and shareholder reports); *Delivery of Proxy Statements and Information Statements to Households, Investment Company Act Release No. 24715* (Oct. 27, 2000) [65 FR 65736 (Nov. 2, 2000)] (adopting householding rules with respect to proxy statements and information statements).

<sup>217</sup> Rule 30e-3(c)(6).

<sup>218</sup> See proposed rule 30e-3(d)(6).

exhibit to Form N-CEN or Form N-CSR.<sup>219</sup> Commenters also recommended eliminating the filing requirement, and indicated that the Commission could ensure compliance in a less costly manner using its examination program.<sup>220</sup>

After further consideration of these comments, we have modified the final rule as follows. Notices that do not contain content from the report (as permitted by paragraph (c)(3)) would not be required to be filed with the Commission because we do not expect those Notices to change significantly from period to period.<sup>221</sup> We also believe that our staff can evaluate for compliance with the Notice provisions of the rule through the Commission's examination program.

On the other hand, Notices that contain content from the report as permitted by paragraph (c)(3) would be required to be filed with the Commission as part of the fund's report on Form N-CSR.<sup>222</sup> We believe it is appropriate for the Commission to review the disclosure in these Notices in conjunction with its overall review of shareholder reports and other disclosure filings. In requiring that they be filed with the Commission, the staff will be able to monitor for compliance with the rule, as well as for general industry trends in the use of these Notices as part of its ongoing disclosure review and other activities.

### **c. Delivery of Paper Copy Upon Request**

As a condition to reliance on the rule, we proposed to require that the fund or UIT

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<sup>219</sup> See, e.g., Dechert Comment Letter; ICI Comment Letter I; T. Rowe Price Comment Letter I.

<sup>220</sup> See, e.g., Dechert Comment Letter; Invesco Comment Letter; SIFMA AMG Comment Letter.

<sup>221</sup> We expect this to be the case given the nature of the information required in the Notice, along with the general restriction on including information other than that required by the rule.

<sup>222</sup> Item 1(b) of Form N-CSR (requiring the filing of a copy of each notice transmitted to stockholders in reliance on rule 30e-3 that contains disclosures specified by paragraph (c)(3) of that rule).

(or a financial intermediary through which shares of the fund or UIT may be purchased or sold) must send, at no cost to the requestor and by U.S. first class mail or other reasonably prompt means, a paper copy of the most recent annual and semi-annual reports of the fund (or underlying fund in the case of a UIT), and portfolio holdings of the fund (or underlying fund in the case of a UIT) as of its most recent first and third fiscal quarters, to any person ad hoc requesting copies of any such documents within three business days after receiving a request for a paper copy.<sup>223</sup> This requirement is intended to allow investors to receive shareholder reports and portfolio information in paper, if they prefer, even if they are receiving Notices under the rule,<sup>224</sup> and we are adopting it generally as proposed. However, we have modified the final rule from the proposal to eliminate the reference in this provision to financial intermediaries given the guidance in this release regarding the operation of the rule in the context of financial intermediaries.<sup>225</sup>

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<sup>223</sup> Proposed rule 30e-3(f). One commenter questioned fund firm practices regarding delivery of paper shareholder reports upon request. *See* Broadridge Comment Letter II. A second commenter disputed the premise and sampling methodology conducted by the first commenter, stating that fund firms have “specific, highly effective processes in place to handle requests under Rule 498.” *See* ICI Comment Letter III. The Commission is not aware of investors having systemic issues related to fund firm practices regarding delivery of paper shareholder reports upon request.

<sup>224</sup> *See, e.g.*, 1995 Release, *supra* note 18 (stating “that “as a matter of policy, where a person has a right to receive a document under the federal securities laws and chooses to receive it electronically, that person should be provided with a paper version of the document if any consent to receive documents electronically were revoked or the person specifically requests a paper copy (regardless of whether any previously provided consent was revoked).”). A similar requirement is found in rule 498 under the Securities Act governing the use of a summary prospectus. *See* rule 498(f) [17 CFR 230.498(f)].

<sup>225</sup> *See* rule 30e-3(e), (i); proposed rule 30e-3(f); *infra* Section II.C. For clarity, the final paragraph (e) of rule 30e-3 operates independently of final paragraph (f) of rule 30e-3. *Compare* rule 30e-3(e) (requiring funds to deliver a paper report in response to a shareholder’s ad hoc request) and rule 30e-3(f) (requiring funds to deliver paper reports to a

**d. Investor Elections to Receive Future Reports in Paper**

While we believe that many investors would prefer internet availability of shareholder reports based on investor testing and internet usage trends, we also acknowledge that there will be investors who continue to prefer receiving shareholder reports in paper.<sup>226</sup> In order to maintain the ability of those investors to receive paper copies of their shareholder reports, the final rule prohibits reliance on the rule to transmit a report to a shareholder if such shareholder has notified the fund (or the shareholder's financial intermediary) that the shareholder wishes to receive paper copies of shareholder reports at any time after the fund has notified the shareholder of its intent to rely on the rule or provided a Notice to the shareholder.<sup>227</sup>

Under the proposal, rule 30e-3 would have permitted use of the rule as to a particular investor only if the investor either previously affirmatively consented to this method of transmission, or was determined to have provided implied consent (if affirmative consent was not received) by sending an Initial Statement to investors.<sup>228</sup> To

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shareholder, who has elected a shareholder preference to receive paper reports). *See also infra* Section II.B.2.d.

<sup>226</sup> *See supra* notes 96–97 and accompanying text.

<sup>227</sup> Rule 30e-3(f)(1).

<sup>228</sup> Proposed rule 30e-3(c). These proposed conditions are substantially similar to certain of the conditions relating to the Commission's rules on "householding" prospectuses, shareholder reports, and proxy statements and information statements to investors who share an address. *See, e.g.,* rule 154 under the Securities Act [17 CFR 230.154]; rules 30e-1 and 30e-2 under the Investment Company Act [17 CFR 270.30e-1; 17 CFR 270.30e-2]; rules 14a-3 and 14c-3 under the Exchange Act [17 CFR 240.14a-3; 17 CFR 240.14c-3]. For purposes of the householding rules, consent may be written or implied.

While the householding rules require that consent (other than implied consent) be "in writing," we did not propose a similar "in writing" requirement because, consistent with the Commission's guidance on electronic delivery, consent may be provided in a number of ways, including in writing, electronically, or telephonically. *See* 1995 Release, *supra* note 18 (noting that one method for satisfying evidence of delivery is to obtain informed consent

obtain implied consent, the proposed rule would have required that the Initial Statement inform the investor that future shareholder reports would be made available on a website until the investor provided notification that he or she wished to receive paper copies of the reports in the future.<sup>229</sup> If such notification was not received within 60 days after sending the Initial Statement, the rule could be relied upon with respect to that investor provided that the other conditions of the rule were met.<sup>230</sup>

Comments were mixed regarding the Initial Statement and the proposal's use of both affirmative and implied consent. Some commenters recommended removing provisions of the proposed rule that allow affirmative consent and provide solely for implied consent.<sup>231</sup> One of these commenters stated that these affirmative consent provisions would add cost and complexity in tracking affirmative consents "as an additional step separate from the notice" and noted that the current "notice and access" system for the delivery of proxy materials does not contain such a feature.<sup>232</sup> In contrast, other commenters expressed concerns about permitting internet availability of shareholder reports to be the default method of satisfying transmission obligations to

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from an investor to receive information through a particular medium); 1996 Release, *supra* note 18 (stating that informed consent should be made by written or electronic means); 2000 Release, *supra* note 18 (stating Commission's view that an issuer or market intermediary may obtain an informed consent telephonically, as long as a record of that consent is retained).

<sup>229</sup> Proposed rule 30e-3(c)(1). The proposed rule defined "Initial Statement" as the statement described in paragraph (c)(1) of the rule. *See* proposed rule 30e-3(h)(2).

<sup>230</sup> Proposed rule 30e-3(c)(4).

<sup>231</sup> *See* SIFMA Comment Letter (further noting that "[t]he current system of notice and access for the delivery of proxy materials relies entirely on an implied consent approach, and in our experience that approach has been successful in accurately capturing the preferences of clients, who have the option of requesting paper copies on either a one-time or on-going basis"); Comment Letter of InveShare, Inc. (Feb. 11, 2016) ("InveShare Comment Letter").

<sup>232</sup> *See* SIFMA Comment Letter.

investors for those funds that elect to rely on the rule based on implied consent.<sup>233</sup> Some of these commenters suggested that affirmative consent would be a more appropriate means to assess investor preferences for internet availability or paper transmission of shareholder reports.<sup>234</sup>

One commenter suggested that the final rule eliminate the Initial Statement requirement altogether.<sup>235</sup> That commenter argued that the Initial Statement is unnecessary because both the Initial Statement and the Notice serve to inform investors of report availability and the right to receive paper reports. The commenter further argued that elimination of the Initial Statement requirement would streamline customer communications regarding delivery preferences, reduce unnecessary fund and investor expenses, and align the requirements of the rule with the Commission's rule regarding internet availability of proxy materials (rule 14a-16 under the Exchange Act).<sup>236</sup>

After considering comments, we have eliminated the proposed Initial Statement from the final rule. Instead, we are adopting an extended transition period. During the extended transition period, an investor in a mutual fund, for example, that seeks to begin relying on the rule before January 1, 2022 would receive approximately six notices of the upcoming change over a two-year period (each year, investors will receive notice on the summary prospectus or prospectus, as well as the semi-annual and annual report to shareholders.). The extended transition period is an appropriate, effective, and

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<sup>233</sup> See *supra* notes 54–59 and accompanying text.

<sup>234</sup> See, e.g., American Forest and Paper Comment Letter.

<sup>235</sup> See Fidelity Comment Letter I.

<sup>236</sup> *Id.*

cost-efficient method of funds informing shareholders of the change in transmission format in lieu of the proposed Initial Statement provisions.<sup>237</sup>

In addition, the extended transition period will provide time for funds, financial intermediaries, and Commission staff to undertake efforts to raise investor awareness of the change in transmission method before funds are permitted to begin relying on the rule. These efforts, combined with the requirement that Notices be transmitted in lieu of paper reports informing investors of their ability to receive paper reports, will help ensure that all investors—including those who hold only funds that first choose to rely on the rule on or after January 1, 2022—nonetheless are made aware of the change in transmission method and the option to receive reports in the manner they prefer. We believe that upon the completion of this extended transition period it is appropriate to begin allowing all funds to rely on the rule.

Permanent Elections for Paper Reports.

Although the final rule replaces the proposed provisions relating to the Initial Statement with the extended transition period, the final rule also includes provisions enabling an investor to elect to receive future shareholder reports in paper after making a one-time election. Specifically, the rule provides that a fund may not rely on rule 30e-3 to satisfy its obligations to transmit a report if at any time after the fund has notified the investor of its intent to rely on the rule or provided a Notice to the investor, the investor

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<sup>237</sup> See *infra* Section II.B.2.f.

has notified the fund (or the investor's financial intermediary) that the investor wishes to receive paper copies of shareholder reports.<sup>238</sup>

Beginning as early as January 1, 2019, funds will track investor preferences for paper copies of reports. We have adopted this date for two reasons. First, this date provides funds, financial intermediaries, and other service providers with a period of time to update systems to begin tracking investor paper preferences for shareholder reports.<sup>239</sup> Second, this approach will allow investors who currently receive paper copies of reports to continue to receive them in that format without interruption. Therefore, if a fund intends to rely on the rule to transmit reports before January 1, 2022, the fund's investors will generally have a two year period to notify their fund of their preference and avoid any interruption of their paper deliveries.<sup>240</sup> Funds that newly offer their shares to the

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<sup>238</sup> See rule 30e-3(f)(1). In the Proposing Release, we requested comment as to whether funds should be able to re-solicit implied consent for shareholders who had previously elected paper delivery and if we should prescribe a minimum time period for doing so. One commenter believed we should, but did not suggest a particular waiting period. See State Street Comment Letter. Given that the final rule eliminates the Initial Statement requirement to obtain implied consent, we no longer need to consider a minimum waiting period for re-soliciting implied consent.

One commenter suggested that the current system of notice and access for the delivery of proxy materials relies entirely on an implied consent approach. See SIFMA Comment Letter. While the commenter is correct that rule 14a-16 under the Exchange Act does not require delivery of a notice similar to the Initial Statement, the rule also does not incorporate the concept of implied consent. See rule 14a-16(j)(4) under the Exchange Act (requiring the registrant to maintain records of security holder requests to receive materials in paper or via email for future solicitations, and to provide copies of the materials to a security holder who has made such a request until the security holder revokes such request rule 30e-1(f)) [17 CFR 240.14a-16(j)(4)].

<sup>239</sup> We discuss these operational considerations and others with respect to financial intermediaries below in Section II.C.

<sup>240</sup> For most investors, this period before January 1, 2022 will result in an extended opportunity to notify their fund of their preference for paper reports and receive them in that format without interruption as compared to the proposed rule. Under the proposed rule, there would not have been an extended transition period during which prominent disclosures would have been included in shareholder documents notifying investors of the upcoming change in

public after January 1, 2019, but include the notice in the relevant disclosure documents from the date of their first public offering will be able to rely on the rule beginning January 1, 2021. Although this may result in a shorter notice period to shareholders of these funds, we believe this is appropriate because these funds will have been offered to investors solely with the expectation that the fund will rely on the rule.

Application of Investor Elections for Paper Reports Across Multiple Positions.

Under the proposed rule, each fund, including each series of a registrant offering multiple series, would have needed to obtain separate consent as to an investor, regardless of whether consent was obtained from that investor by other series offered by that registrant. An investor preferring paper copies also would have needed to deny or revoke consent for each fund, including each series, for which the shareholder preferred to receive paper copies of reports. In the Proposing Release we requested comment on whether consent should be obtained separately as to each fund, or whether consent that is applied to one fund could be inferred as to other funds held by the investor. We also requested comment on whether there were any special considerations relating to investors who invest through intermediaries.<sup>241</sup>

Commenters who addressed this issue uniformly recommended that consent should be permitted to be inferred with respect to all funds held by an investor within a

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transmission format. A fund would have been permitted under the proposed rule to send Notices to an investor 60 days after sending an Initial Statement to that investor. *See* proposed rule 30e-3(c).

<sup>241</sup> *See* Proposing Release, *supra* note 14, at 33632.

fund complex<sup>242</sup> or with a financial intermediary,<sup>243</sup> including funds held by contract owners through a variable insurance product.<sup>244</sup> These commenters noted that requiring consent for each individual fund position could cause investor confusion and possibly overwhelm investors if separate Initial Statements per fund position were required to be sent.<sup>245</sup> Another commenter stated that tracking consents on a fund-by-fund basis might be too burdensome for funds, especially in the case of funds offering exchange privileges.<sup>246</sup> Some commenters stated that applying investor preferences across all funds held within a fund complex or held in a particular account or financial intermediary would provide regulatory consistency with the Commission’s electronic delivery guidance<sup>247</sup> and with the Commission’s e-proxy rules.<sup>248</sup>

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<sup>242</sup> See, e.g., BlackRock Comment Letter; Schwab Comment Letter; ICI Comment Letter I; Invesco Comment Letter; MFS Comment Letter; OppenheimerFunds Comment Letter; State Street Comment Letter.

<sup>243</sup> See, e.g., BlackRock Comment Letter; Schwab Comment Letter; Fidelity Comment Letter I; ICI Comment Letter I; Invesco Comment Letter; Mediant Comment Letter; OppenheimerFunds Comment Letter; SIFMA Comment Letter.

<sup>244</sup> See CAI Comment Letter I.

<sup>245</sup> See ICI Comment Letter I.

<sup>246</sup> See State Street Comment Letter.

<sup>247</sup> See MFS Comment Letter.

<sup>248</sup> See Fidelity Comment Letter I (recommending that account level preferences, and not fund level preferences, should be adopted in the final rule, noting that “most funds and broker dealers maintain shareholder delivery preferences at the account level (account or multiple accounts under the same SSN or TIN) and not at the fund level. Delivery preference requirements at the fund level is inconsistent with existing account level preference management requirements under the Proxy Rule, electronic delivery and other account level preferences (e.g., letters and alerts).”); SIFMA AMG Comment Letter (recommending that consents be permitted at the customer or account level rather than on a fund-by-fund basis in noting that “[c]urrent consent collection databases used for electronic delivery of disclosure and other documents generally collect information at the account level. For example, an account holder with the same name and address would be solicited to consent to electronic delivery of shareholder reports with respect to all funds held in the account of the account holder. The requirement of sub-section (c) of proposed Rule 30e-3 to collect consents on a fund-by-fund basis would require reprogramming or completely new consent collection

After consideration of the issues raised by commenters, we agree that applying the investor’s election for paper reports at the investor account level,<sup>249</sup> rather than the fund position level, is consistent with other delivery preference requirements with which investors, intermediaries, and funds are already familiar. Therefore, the final rule provides that if an investor has notified a fund complex or UIT (or the investor’s financial intermediary) that the investor wishes to receive paper copies of shareholder reports, the investor will be deemed to have requested paper copies with respect to (i) any and all current and future funds held through an account or accounts with (A) the fund’s transfer agent or principal underwriter or agent thereof for the same “group of related investment companies” as such term is defined in rule 0-10 under the Investment Company Act;<sup>250</sup> or (B) a financial intermediary; and (ii) any and all funds held currently and in the future in a separate account funding a variable annuity or variable life insurance contract.<sup>251</sup>

**e. Prospectuses and Statements of Additional Information Transmitted Under Rule 30e-1(d)**

Rule 30e-1(d) permits an open-end management investment company to transmit a copy of its prospectus or statement of additional information in place of its shareholder report, if it includes all of the information that would otherwise be required to be

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techniques and databases. We believe the cost of implementing these changes may be a significant impediment to funds relying on Rule 30e-3 to transmit reports to shareholders who have not yet provided affirmative consent to electronic delivery over the Commission’s existing electronic delivery guidance.”).

<sup>249</sup> The election could be applied, for example, if fund shares are held by an investor in one or more accounts with the same registration (*i.e.*, names, social security numbers, and/or tax identification numbers).

<sup>250</sup> 17 CFR 270.0-10.

<sup>251</sup> Rule 30e-3(f)(2). *See also infra* Section II.C.

contained in the shareholder report.<sup>252</sup> Under rule 30e-3 as proposed, the rule would not be available to a fund seeking to transmit a copy of its currently effective statutory prospectus or statement of additional information, or both, as permitted by rule 30e-1(d).<sup>253</sup> We received no comments on this aspect of the proposed rule and are adopting it as proposed.<sup>254</sup>

#### **f. Extended Transition Period**

Rather than making the rule effective immediately and requiring an Initial Statement, as proposed, we are adopting an extended transition period with staged effective dates.<sup>255</sup> During the extended transition period, the earliest that Notices may be transmitted to investors in lieu of paper reports is January 1, 2021. In general, funds will be required to provide two years of notice to shareholders before relying on the rule, if relying on the rule before January 1, 2022.<sup>256</sup> Therefore, funds that begin providing notice at the start of 2019 will complete the two-year notice period, and may begin relying on the rule, on January 1, 2021. Funds that are newly offered during the period from January 1, 2019 through December 31, 2020 may rely on the rule starting January 1, 2021, if they provide notice to shareholders starting with their first public offering. Funds that are newly offered beginning January 1, 2021 and thereafter may rely on the rule immediately without providing advance notice. All other funds may not rely on the

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<sup>252</sup> See rule 30e-1(d).

<sup>253</sup> See proposed rule 30e-3(g).

<sup>254</sup> Rule 30e-3(g).

<sup>255</sup> See rule 30e-1(j).

<sup>256</sup> For purposes of paragraph (i) of the rule, a “required statement” means the statement regarding a fund’s intent to rely on rule 30e-3 specified by (i) its applicable registration form, and (ii) in the case of a fund that uses a summary prospectus, rule 498. See rule 30e-3(i)(2). See also *infra* Section II.B.3 for a discussion of the related disclosure amendments.

rule until they have completed the full two year notice period or until January 1, 2022, whichever comes first.

The extended transition period is designed so that investors will receive disclosures to alert them to the change in the transmission method and allow them to express their delivery preference while also providing funds and financial intermediaries a period of time to educate investors of the coming change through disclosures on prospectuses and certain other fund documents and through other means. It will also provide funds and financial intermediaries with time to implement any necessary operations and systems changes. Finally, the Commission staff will also use this extended transition period to engage in educational and investor outreach efforts. As discussed above, after consideration of comments received on the proposal, we believe that the enhanced disclosure requirements during this extended transition period are a more appropriate and effective method of providing investors with advance notice of a fund's intent to rely on rule 30e-3 than the proposed Initial Statement requirement.<sup>257</sup>

Except as specified below, a fund generally may rely on rule 30e-3 to transmit a report to an investor before January 1, 2022, only after providing required statements over a two-year period as follows:

*Beginning January 1, 2021:*

- *Existing funds with public shareholders prior to January 1, 2019*—if the fund includes the required statements on each applicable document required to be

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<sup>257</sup> See *supra* Section II.B.2.d.

delivered or transmitted to shareholders for the period beginning on January 1, 2019 and ending on December 31, 2020.<sup>258</sup>

- *Funds that begin offering shares publicly during period January 1, 2019 through December 31, 2020*—if the fund includes the required statements on each applicable document required to be delivered or transmitted to shareholders for the period beginning on the date the fund first publicly offers its shares and ending on December 31, 2020.<sup>259</sup>
- *Funds that begin offering shares publicly January 1, 2021 and thereafter*—would not be subject to the condition and could therefore rely on the rule immediately without providing any advance notice through required statements.<sup>260</sup>

*Between January 1, 2021 and January 1, 2022:*

A fund may otherwise begin to rely on rule 30e-3 before January 1, 2022 if the fund includes the required statement on the applicable disclosure documents for a period of two years prior to beginning to rely on the rule.<sup>261</sup>

### **3. Related Amendments**

In connection with our adoption of rule 30e-3, we are also adopting related amendments to certain of our rules and forms. First, we are adopting, as proposed, amendments to rule 498 under the Securities Act, which concerns the use of a summary

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<sup>258</sup> Rule 30e-3(i)(1)(ii).

<sup>259</sup> *Id.* We believe it is appropriate to permit such funds to rely on the rule on January 1, 2021 because investors in such funds will be alerted to the change in transmission method both when they purchased shares in the fund and each time a shareholder report is delivered to them other than in reliance on rule 30e-3.

<sup>260</sup> Rule 30e-3(i)(1)(i)(B).

<sup>261</sup> Rule 30e-3(i)(1)(ii).

prospectus,<sup>262</sup> to require funds relying on rule 30e-3 to include as part of the legend on the cover page or beginning of the fund’s summary prospectus the website address required to be included in the Notice.<sup>263</sup> We received no comments on this aspect of the proposal. The website address that leads to shareholder report information could be the same as the website address that leads to prospectus information, provided that the other conditions of each rule are met, or different so long as both addresses are provided as part of the legend.<sup>264</sup> This requirement is intended to provide investors an additional reminder of the website availability of shareholder reports.

Second, in a change from the proposal, the final rule permits a summary prospectus to include instructions describing how a shareholder can elect to receive prospectuses or other documents and communications by electronic delivery.<sup>265</sup> We received a number of comments on fund investors’ increasing internet usage and receipt of electronically delivered materials.<sup>266</sup> We are persuaded by these comments. Accordingly, the final rule will permit a summary prospectus to include electronic delivery election instructions, consistent with our belief that this provision will promote our general goal of providing investors with their preferred format of materials, and is

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<sup>262</sup> See rule 498 under the Securities Act [17 CFR 230.498].

<sup>263</sup> See rule 498(b)(1)(v)(A) under the Securities Act [17 CFR 230.498(b)(1)(v)(A)].

<sup>264</sup> See *id.*

<sup>265</sup> See rule 498(b)(1)(vi) under the Securities Act [17 CFR 230.498(b)(1)(vi)].

<sup>266</sup> See *supra* Section II.A.1.

parallel and consistent with conditions set forth in rule 30e-3 that ensure investors who prefer paper copies have instructions regarding how to communicate that preference.<sup>267</sup>

Third, we are amending rule 498 under the Securities Act, as proposed, to include a Notice required by rule 30e-3 among the materials that are permitted to have equal or greater prominence when accompanying a summary prospectus prepared in reliance on rule 498.<sup>268</sup> Similarly, we are amending rule 14a-16 under the Exchange Act, generally as proposed, to include a Notice required by rule 30e-3 among the materials that are permitted to accompany a Notice of Internet Availability of Proxy Materials.<sup>269</sup> We received no comment on these proposed amendments.

Fourth, to notify investors of the upcoming change in transmission format, and in a change from the proposal, we are also amending rule 498 and certain fund registration forms to require that funds intending to rely on rule 30e-3 prior to January 1, 2022 include prominent disclosures on the cover page or beginning of their summary prospectuses; on the front cover page of their statutory prospectuses; and on the front cover page or beginning of their annual and semi-annual reports, for two years during the three-year period between January 1, 2019 and December 31, 2021.<sup>270</sup> With the

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<sup>267</sup> See *supra* Sections II.B.2.c, II.B.2.d. Similarly, Notices under final rule 30e-3 would include instructions describing how a shareholder can elect to receive shareholder reports or other documents and communications by electronic delivery. See rule 30e-3(c)(1)(v)(C).

<sup>268</sup> Rule 498(f)(2) under the Securities Act [17 CFR 230.498(f)(2)].

<sup>269</sup> Rule 14a-16(f)(2)(iii) under the Exchange Act [17 CFR 240.14a-16(f)(2)(iii)]. The final amendment to rule 14a-16(f)(2)(iii) excludes the proposed reference to the Initial Statement. See *id.* See also rule 30e-3(c)(5) (permitting a Notice to accompany a Notice of Internet Availability of Proxy Materials).

<sup>270</sup> See new paragraphs (b)(1)(vi) and (b)(1)(vii) of rule 498; new paragraph (a)(5) to Item 1 of Form N-1A; new paragraph (d)(8) to Item 27 of Form N-1A; new paragraph 1.1 to Item 1 of Form N-2; new instruction 6.g to Item 24 of Form N-2; new paragraph (a)(xi) to Item 1 of

exception of newly-formed funds, funds would generally provide these disclosures as follows:

- *Open-End Funds.* Open-end funds would be required to provide the cover page disclosure on at least six documents sent to investors during this time: one per year on the fund's summary prospectus or statutory prospectus, at least one per year on the fund's annual report to shareholders, and one per year on the fund's semi-annual report to shareholders.
- *Closed-End Funds.* Closed-end funds would be required to provide the cover page disclosure on at least four documents during this time: one per year on the fund's annual report to shareholders and one per year on the fund's semi-annual report to shareholders, as well as on their prospectuses unless the fund relies on rule 8b-16(b) under the Investment Company Act.<sup>271</sup>
- *Variable Insurance Products.* Variable annuity and variable life insurance contracts registered on Forms N-4 and N-6, respectively, would be required to provide the cover page disclosure on at least two contract prospectuses during this time.<sup>272</sup>

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Form N-3; new instruction 6(vii) to Item 28(a) of Form N-3; new paragraph (a)(x) to Item 1 of Form N-4; new paragraph (a)(6) to Item 1 of Form N-6.

<sup>271</sup> 17 CFR 270.8b-16(b) (providing an exemption for closed-end funds from the requirement to annually update their registration statement, so long as certain disclosures are included in their annual report to shareholders, or for dividend reinvestment plan descriptions, transmitted as permitted under rule 8b-16).

<sup>272</sup> Most issuers of variable annuities and variable life insurance policies amend their registration statements annually and hence send updated prospectuses to their contract owners at least once per year. Issuers of variable annuity and variable life insurance contracts that no longer amend their registration statements and do not distribute updated prospectuses to contract owners rely on staff no-action letters issued by the Division of Investment Management (*see, e.g.,* Great-West Life & Annuity Insurance Co., SEC Staff No-Action Letter (pub. avail. Oct.

In addition to providing advance notice to investors of their fund’s expected use of the rule, these disclosures are intended to provide important information to both current and prospective investors that gives them an overview of the change in delivery format options, including the fact that reports will be made available on a website and that they will be able to retain delivery of their reports in paper if they should so desire. We believe that these disclosure requirements help to mitigate commenters’ concerns regarding the use of the Initial Statements as a condition to reliance on the rule. We encourage the use of graphical indicators such as flags or other design elements to further draw investor attention to these disclosures. Beginning January 1, 2022, these cover page disclosures will no longer be required.

### **C. The Role of Certain Financial Intermediaries<sup>273</sup>**

As acknowledged in our proposal and stated by commenters, most fund investors are not direct shareholders of record, but instead engage an investment professional and hold their fund investments as beneficial owners<sup>274</sup> through accounts with intermediaries

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23, 1990)). Consistent with this no-action position, such issuers may rely on rule 30e-3 prior to January 1, 2022 if comparable notice is provided to contract owners during the extended transition period when providing them with prospectuses and shareholder reports for underlying funds in which the separate account invests.

In addition, we understand that a small number of issuers of variable life insurance policies continue to register their securities on Form S-6 [17 CFR 239.16]. Such issuers may rely on rule 30e-3 prior to January 1, 2022 if comparable notice is provided on prospectuses (or supplements thereto) delivered to policyholders during the extended transition period.

<sup>273</sup> For purposes of this Section II.C., in using the term “financial intermediaries” we are referring to intermediaries such as banks, brokers, and dealers who maintain securities accounts for others. *See, e.g.*, Exchange Act rule 17Ad-20 (defining the term “securities intermediary” to mean a clearing agency registered under Exchange Act Section 17A [15 U.S.C. 78q-1] or a person, including a bank, broker, or dealer, that in the ordinary course of its business maintains securities accounts for others in its capacity as such).

<sup>274</sup> The discussion in this section of “beneficial owners” refers to beneficial owners whose names and addresses do not appear directly in issuers’ stock registers (*e.g.*, on fund transfer agent

such as broker-dealers.<sup>275</sup> As a result, today intermediaries commonly assume responsibility for distributing issuer materials to beneficial owners, including shareholder reports. In the case of broker-dealers, distribution of shareholder reports to beneficial owners is generally governed by self-regulatory organization (“SRO”) rules, which state that broker-dealer member firms are required to distribute annual reports, as well as “interim reports,” to beneficial owners on behalf of issuers, so long as an issuer (*i.e.*, the fund) provides satisfactory assurance that the broker-dealer will be reimbursed for expenses (as defined in SRO rules) incurred by the broker-dealer for distributing the materials.<sup>276</sup>

Certain commenters expressed concerns regarding potential complexities and costs for broker-dealers to administer proposed rule 30e-3.<sup>277</sup> As discussed above and in

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recordkeeping systems) because their securities are held in street name accounts registered in the name of the intermediary. “Street name” accounts are also known as “omnibus accounts.”

<sup>275</sup> In the Proposing Release, we requested comment on the impact of the proposed rule regarding shareholders holding fund shares through intermediated accounts. *See* Proposing Release, *supra* note 14, at Section II.D.6. By one estimate, approximately 75% of accounts are currently held through brokers and other intermediaries, excluding positions held in employer-sponsored plans. *See* SIFMA Comment Letter (citing estimate provided by Broadridge Financial Services, Inc.).

<sup>276</sup> *See* NYSE rule 465(2); NYSE rule 451(a)(1)–(2); Financial Industry Regulatory Authority (“FINRA”) rule 2251(e)(1)(C); FINRA rule 2251.01. As discussed above, today we approved amendments to NYSE rules that provide additional clarification with respect to the application of certain processing fees that may be charged in the transmission of shareholder reports, including fees that may be applied for reports provided electronically pursuant to a notice and access rule such as rule 30e-3. *See supra* notes 32–36 and accompanying text.

<sup>277</sup> *See e.g.*, SIFMA Comment Letter (stating that the proposed rule did not address the role and obligations of broker-dealers to administer the notice process for clients, and would present logistical challenges and some components would unnecessarily increase complexity and cost without sufficient benefit to mutual funds and their investors; also recommending that the Commission set an effective date for the new rule that provides sufficient time for broker-dealers to develop new infrastructure and internal procedures, and suggesting a transition period of at least 24 months following the effective date of the new rule); Broadridge Comment Letter I (stating that the proposed rule did not acknowledge the

response to these commenter concerns, we have modified the final rule 30e-3(e) to eliminate the proposed reference to financial intermediaries in that provision given the guidance we are providing today regarding the operation of the rule in the context of financial intermediaries.<sup>278</sup>

Multiple commenters requested that the Commission clarify intermediaries' role with respect to delivering Initial Statements and Notices under proposed rule 30e-3, as well as their role in delivering paper copies of shareholder reports to fund beneficial owners upon request.<sup>279</sup> Commenters also requested clarity on how beneficial owners who hold fund shares through accounts with intermediaries can communicate their election to receive paper copies of shareholder reports.<sup>280</sup> With respect to beneficial owners holding fund positions from more than one fund complex in intermediated accounts, commenters further requested whether beneficial owners would be able to communicate their preferences on an account-level basis instead of on a fund-by-fund basis.<sup>281</sup> Commenters also asked that the Commission clarify how intermediaries will be reimbursed by funds for the services they would provide,<sup>282</sup> as well as confirm that an

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essential role broker-dealers would play in making the rules work in practice and that an additional method of delivery for fund reports would add cost and complexity to processing; further noting that the processing complexities of the proposed rule are similar to those of proxies and opining that the proposal did not appropriately contemplate or measure these extra costs).

<sup>278</sup> See *supra* note 225 and accompanying text.

<sup>279</sup> See, e.g., ICI Comment Letters I and II; Broadridge Comment Letter I; CSIM Comment Letter; Fidelity Comment Letter I; Invesco Comment Letter; MFS Comment Letter; OppenheimerFunds Comment Letter; SIFMA Comment Letter.

<sup>280</sup> See SIFMA Comment Letter; Schwab Comment Letter; Broadridge Comment Letter I; ICI Comment Letter I.

<sup>281</sup> See SIFMA Comment Letter; ICI Comment Letter I.

<sup>282</sup> See, e.g., ICI Comment Letter I; Invesco Comment Letter; SIFMA Comment Letter.

intermediary or other third party service provider could host the website on which the materials would be accessible.<sup>283</sup>

After consideration of the comments we received, including concerns raised regarding the role of financial intermediaries, we have made several modifications to the rule designed to respond to investor protection concerns, streamline and clarify the operation of the transmission regime, provide additional flexibility, and further increase cost savings for investors. For example, we have eliminated the requirement to send an Initial Statement and reply cards under the final rule. In addition, the final rule permits flexibility with respect to the preparation and mailing of Notices, and requires that elections to receive paper reports apply on an account-level basis, instead of a fund by fund basis.

In response to commenters' concerns regarding broker-dealer activities under the new rule 30e-3 framework, below we provide guidance addressing the processes that could be followed by broker-dealers and other intermediaries that deliver shareholder reports to beneficial owners. To remind funds and others of the guidance provided in this release, we have added a note to final rule 30e-3 indicating that this release contains a discussion of how the conditions and requirements of the rule may apply in the context of investors holding fund shares through financial intermediaries.<sup>284</sup>

Financial intermediaries already perform many functions similar to those outlined in rule 30e-3. For example, intermediaries currently forward to beneficial owners a

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<sup>283</sup> See, e.g., SIFMA Comment Letter; Broadridge Comment Letter I; InveShare Comment Letter; *see also infra* note 307 (detailing commenters' discussion and requests for clarification about intermediary website hosting).

<sup>284</sup> See Note to rule 30e-3.

variety of materials from funds and other issuers of securities, including shareholder reports. Many intermediaries operate websites that host shareholder reports and other materials relating to a beneficial owner's investments. Intermediaries today also collect and maintain investor preferences as to delivery format (*i.e.*, whether a beneficial owner receives reports or other documents—including materials prepared by the intermediary such as account statements and confirmations—in paper or has elected electronic delivery of some or all of those materials), and monitor for potential householding arrangements and collect related consents for their customers. As a result, we believe many intermediaries generally may be able to leverage existing infrastructure and adapt systems and processes currently used for the delivery of documents and other information to their customers.<sup>285</sup>

### **1. Distribution of Notices to Beneficial Owners**

SRO rules require broker-dealers to distribute shareholder reports to beneficial owners.<sup>286</sup> We believe that a broker-dealer, at the fund's request, could also distribute Notices required under rule 30e-3 if the broker-dealer distributes the materials in a manner consistent with the rule. We understand that today, funds and broker-dealers routinely develop detailed implementation plans and other parameters for fulfillment of

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<sup>285</sup> Two commenters suggested that the framework for rule 30e-3 as proposed was similar to that for the notice and access framework for the delivery of proxy materials. *See* SIFMA Comment Letter, Broadridge Comment Letter I. Although both frameworks involve a notice and access framework, the proxy framework involves additional complexities relating to the process of voting security holdings—considerations not applicable in the case of rule 30e-3, particularly after the modifications we have made to the final rule as discussed above. Instead, we believe that the existing framework for the delivery of fund documents other than proxy materials (*e.g.*, prospectuses, summary prospectuses, shareholder reports, ad hoc requests for paper documents, etc.) is the more appropriate analogous framework.

<sup>286</sup> *See supra* note 276 and accompanying text.

paper and electronic delivery of fund materials (such as shareholder reports, prospectuses, and proxy materials) and other shareholder servicing and compliance-related matters for beneficial owners. We believe that such plans and parameters also could provide a basic framework for the delivery of Notices under rule 30e-3.<sup>287</sup>

The rule permits flexibility in the preparation and delivery of Notices. For example, a Notice could relate solely to an individual fund, or multiple Notices can be combined together to create a consolidated Notice.<sup>288</sup> In addition, the rule permits a Notice to be sent with other documents, including other Notices and account statements.<sup>289</sup> As with funds, a broker-dealer could likewise forward Notices to beneficial owners in any of the aforementioned scenarios.<sup>290</sup>

A fund may determine that for cost or other reasons, it would be preferable for the broker-dealer to prepare and distribute a consolidated Notice for beneficial owners who

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<sup>287</sup> Funds and broker-dealers could work together to establish or modify their plans and parameters. Such discussions also may prompt changes to existing servicing arrangements and/or compliance and oversight activities, particularly where funds determine that broker-dealers will prepare and transmit consolidated Notices in lieu of those prepared by funds (*see infra* notes 291–293 and accompanying text) or establish or use their own website in lieu of funds’ (or a third party’s) to provide access to the shareholder materials for their customers (*see infra* paragraph accompanying note 307).

<sup>288</sup> *See* rule 30e-3(c)(4).

<sup>289</sup> *See* rule 30e-3(c)(5).

<sup>290</sup> In the case of fund-generated Notices that do not have a telephone number or other contact information for the broker-dealer, a broker-dealer could include a cover page or other similar communication that provides the beneficial owner with contact and other information for the broker-dealer, as is often done today when annual reports or other fund documents are forwarded to beneficial owner customers. This contact information could be used by the beneficial owner to, for example, elect to receive all future reports in paper or elect electronic delivery of the report and other documents or communications.

may be invested in multiple funds offered by one or more fund complexes.<sup>291</sup> In addition, a broker-dealer may similarly prefer to prepare such Notices for its customers, given that its customers may have come to expect consolidated communications at the account level rather than the position level.<sup>292</sup> Moreover, Notices prepared by a broker-dealer may better generally match fund investors' expectations because a broker-dealer—and not the fund—typically processes a beneficial owner's fund-related requests.<sup>293</sup>

Notices prepared by broker-dealers generally should be consistent with paragraph (c) of rule 30e-3. For example, as discussed in the section below,<sup>294</sup> a broker-dealer preparing a Notice may wish to include the broker-dealer's own toll-free telephone number, as well as instructions about how the beneficial owner could notify the broker-dealer regarding his or her report delivery preferences.<sup>295</sup>

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<sup>291</sup> For example, because the final rule permits a Notice to accompany other materials (*e.g.*, an account statement), a combined mailing could reduce mailing costs relative to sending the Notice in a separate mailing without any accompanying documents.

<sup>292</sup> Commenters stated that the ability for broker-dealers to prepare their own Initial Statements, including incorporating their own contact information, may assist beneficial owners in communicating their delivery preferences in the manner in which they are generally accustomed. We believe the same may be true of Notices. *See, e.g.*, ICI Comment Letter I (stating that “investors are used to receiving consolidated communications from intermediaries”); SIFMA Comment Letter (“As a practical matter, for accounts held in street name through brokers . . . proposed Rule 30e-3 would necessarily have to be carried out by such brokers.”); InveShare Comment Letter (“Clients furthermore expect that each brokerage firm will provide a consolidated and uniform source of information and support with respect to multiple securities included in a given client account.”).

<sup>293</sup> *See supra* notes 274–275 and accompanying text.

<sup>294</sup> *See infra* Section II.C.2.

<sup>295</sup> We also believe that a broker-dealer should generally specify that a request to receive paper copies of reports will be deemed to be a request with respect to each fund whose shares are held in the beneficial owner's account.

## 2. Beneficial Owner Elections for Paper Reports

The final rule prohibits reliance on the rule if a shareholder has expressed a preference that the shareholder wishes to receive paper copies of shareholder reports.<sup>296</sup> Broker-dealer firms generally should track their customer elections to receive paper reports. Consistent with today's framework under which broker-dealer firms facilitate delivery of shareholder reports to their customers, we believe that broker-dealer firms could provide information to the fund (or fulfillment service provider) regarding the number of paper copies of shareholder reports, and fund-prepared Notices, needed by the broker-dealer to fulfill its customers' delivery preferences.

In response to concerns raised by commenters regarding the burdens and costs of tracking elections to receive paper reports on a fund by fund basis,<sup>297</sup> and in a change from the proposal, the rule has been modified so that an election to receive paper reports will apply to any and all current and future funds held through an account or accounts with a financial intermediary.<sup>298</sup> We believe that tracking paper report elections on an account basis should simplify the operation of the rule, as well as the design and implementation of systems to track shareholder report paper elections for both broker-dealers and funds.

Today, paper copies of statutory prospectuses or statements of additional information may be requested by beneficial owners on an ad hoc basis in cases where a

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<sup>296</sup> See rule 30e-3(f)(1).

<sup>297</sup> See, e.g., State Street Comment Letter.

<sup>298</sup> See rule 30e-3(f)(2).

fund uses a summary prospectus.<sup>299</sup> Paper copies of disclosure documents (including shareholder reports) may also be requested where a client has elected electronic delivery for some, but not all communications.

We note that the rule's approach of delivering Notices, together with the option of permitting shareholders to request paper copies on either an ad hoc or ongoing basis, is generally similar to the operational approach currently used by many broker-dealers (and funds) for the delivery of fund materials, including proxy materials. We believe that existing systems for default electronic delivery could be leveraged by broker-dealers in implementing the final rules in order to establish new processes and procedures for delivery of shareholder reports at a lower cost than would be the case if such systems did not already exist.<sup>300</sup> In particular, elimination of the proposed Initial Statement in the final rule reduces the operational complexities with respect to use of the rule, which we believe may make it easier for existing systems to be leveraged. We recognize, however, that some broker-dealers may decide instead to create new systems.

To facilitate beneficial owners' elections to receive future reports in paper, a broker-dealer firm generally should provide information on how to contact the firm (or if applicable, the fund) in conjunction with the delivery of Notices. For Notices prepared by the broker-dealer firm, the Notice could contain the toll-free telephone number of the

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<sup>299</sup> As discussed above in Section II.B.3., we believe that beneficial owner ad-hoc requests for paper reports or other required materials would continue to be fulfilled by funds when requested (as they are today) or such customer requests could be fulfilled directly by the broker-dealer.

<sup>300</sup> *See, e.g.*, SIFMA Comment Letter (describing operation execution of proposed rule 30e-3 in terms of re-tooling established systems or creating new systems); Broadridge Comment Letter I (describing ongoing systems development in light of proposed rule 30e-3 including potentially adding new control number and consent systems).

firm and other methods by which beneficial owners could contact the firm. If the broker-dealer firm is delivering Notices prepared by a fund, the firm could include with the Notice information containing the toll-free telephone number of the firm and other methods by which beneficial owners could contact the firm.<sup>301</sup>

A commenter also requested a transition period of at least 24 months following the effective date of the rule to allow time to address new systems, processes and procedures required to comply with the rule.<sup>302</sup> In response to these and other concerns raised by commenters, and other considerations discussed below on the effective date of the rule, we are adopting an extended effective date of January 1, 2019 to provide funds, financial intermediaries, and other service providers with an adequate period of time to modify systems and operations to accommodate the new transmission framework. Broker-dealers generally should track investor elections for paper copies of shareholder reports after first transmitting a notification of a fund's intent to rely on the rule, beginning as early as January 1, 2019, or the first time a Notice is provided to the shareholder.<sup>303</sup>

### **3. Website Availability of Materials**

The final rule does not require that the website where the required materials are available be maintained by any particular party. Instead, the rule provides that the

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<sup>301</sup> For example, this information could be provided on a cover sheet to the delivered Notice, or on an account statement delivered with the Notice. *See* rule 30e-3(c)(5)(iv) (permitting Notices to accompany a shareholder's account statement).

<sup>302</sup> *See* SIFMA Comment Letter.

<sup>303</sup> *See* Section II.B.2.d. As discussed, the final rule has been streamlined and simplified, in an effort to reduce complexity and related implementation burdens and costs. Broker-dealers also will have an extended transition period of an additional two years to coordinate with funds on the design and implementation of Notices, which may be transmitted beginning January 1, 2021.

required materials must be posted at the website specified in the Notice.<sup>304</sup> This approach is consistent with similar flexibility provided under the current rules relating to the use of a summary prospectus.<sup>305</sup> In addition, electronic delivery elections for shareholder reports and other documents can be fulfilled by making fund reports and other materials accessible on websites hosted by the fund, the broker-dealer firm, or a third-party service provider of the fund or intermediary.<sup>306</sup> Thus, a variety of existing infrastructure arrangements for hosting reports and other materials may be leveraged in providing website availability of shareholder reports to beneficial owners under rule 30e-3.

Commenters observed that it could be more efficient for a broker-dealer to establish its own website (or utilize a central third-party website) on which shareholder materials would be hosted, and identify this website (as opposed to each fund or fund family's website) in any Notices prepared by the broker-dealer.<sup>307</sup> A fund, as the party ultimately responsible for the content and delivery of shareholder reports under Commission rules, may agree to the use of a broker-dealer or third party website to

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<sup>304</sup> See rule 30e-3(b)(1).

<sup>305</sup> See rule 498(e)(1) under the Securities Act (requiring in the case of the summary prospectus, that the required documents be available at the website specified on the cover page or beginning of the summary prospectus) [17 CFR 230.498(e)(1)].

<sup>306</sup> Pursuant to the Commission's existing electronic delivery guidance, beneficial owner elections for electronic delivery of shareholder reports and other documents continue to grow, with one commenter noting that electronic delivery has grown from 19% of fund report deliveries in 2010 to over 50% as of June, 2018. See *supra* note 73 and accompanying text.

<sup>307</sup> See, e.g., SIFMA Comment Letter (requesting clarification that the use of a single third party website or landing page where investors can access all relevant materials is permitted); Broadridge Comment Letter II, at Attachment B (discussing the ability for an investor to access shareholder reports on a fund's or a broker's website and the ability for such website to be customized by the fund or broker to provide an enhanced user experience for the investor); InveShare Comment Letter (noting that investors are used to using a single webpage to locate documents, where documents are listed in an orderly manner).

provide electronic access to shareholder reports and other materials applicable to a beneficial owner's account if the reports and others materials are posted in a manner consistent with the requirements of rule 30e-3.<sup>308</sup> We also acknowledge, as noted by commenters, that allowing the use of a control number or QR code (or similar login process) to access a broker-dealer's website (or other central third-party website) could help investors to more efficiently access the fund reports and other materials relevant to them, rather than directing an investor that holds various fund positions to multiple fund complex websites where such documents are publicly available.<sup>309</sup>

#### **D. Extension of Similar Delivery Framework to Other Documents**

While rule 30e-3 as proposed would apply only to shareholder reports, we also requested comment in the Proposing Release on whether we should permit a similar framework to satisfy delivery obligations for summary or statutory prospectuses.<sup>310</sup>

Citing cost reductions and other reasons, a number of commenters recommended that we

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<sup>308</sup> For example, if a broker-dealer were to establish its own website, it should generally follow procedures similar to those described in rule 30e-3(b)(2)–(5). Use of a broker-dealer or third party website may be a more user friendly, efficient, and cost effective way to provide electronic access to reports and other materials. For example, a consolidated Notice prepared by the broker-dealer that directs beneficial owners to their account page through a single website address (rather than multiple website addresses for beneficial owners who own funds from multiple complexes) may make it easier for beneficial owners to access these reports than accessing multiple reports available on separate websites. We note that today, such reports may be accessed from a broker-dealer website, where they reside, or through re-direction to a central website, or the fund's website. We also note that many broker-dealers provide beneficial owners with links to fund websites for accessing documents delivered via electronic delivery and for otherwise accessing these documents from their online accounts with their broker-dealer as noted above. Thus, in certain circumstances, it may be more cost effective for the shareholder report and other materials to be hosted on the fund's website or a central third-party website.

<sup>309</sup> See *supra* notes 169–170 and accompanying text.

<sup>310</sup> See Proposing Release, *supra* note 14, at 33633.

extend a similar framework to other materials, including prospectuses,<sup>311</sup> variable insurance product materials,<sup>312</sup> and notices required under rule 19a-1 and related exemptive orders.<sup>313</sup> One commenter suggested that the Commission should adopt rules allowing funds to use the internet to satisfy delivery requirements across all investor documents.<sup>314</sup> Some commenters also suggested that the Commission amend rule 172 under the Securities Act to apply the rule’s “access equals delivery” framework to funds and variable insurance products.<sup>315</sup>

While we appreciate these recommendations, we believe that the appropriate incremental step is rule 30e-3, as adopted. As discussed above, we are seeking comment on the content, delivery, and design of fund disclosure as well as the processing fees for delivering fund shareholder reports and other materials to investors, and may consider in the future an electronic or notice and access delivery framework for documents other than shareholder reports.<sup>316</sup>

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<sup>311</sup> See, e.g., CAI Comment Letter I; Capital Research Comment Letter I; Fidelity Comment Letter; ICI Comment Letter I; Comment Letter of Independent Directors Council (Aug. 11, 2015); Invesco Comment Letter; OppenheimerFunds Comment Letter; Schwab Comment Letter; SIFMA AMG Comment Letter; State Street Comment Letter; Vanguard Comment Letter.

<sup>312</sup> See Allianz Comment Letter; see also CAI Comment Letter I.

<sup>313</sup> See Comment Letter of Eaton Vance Investment Managers (Aug. 11, 2015).

<sup>314</sup> See Schnase Comment Letter.

<sup>315</sup> See Allianz Comment Letter; CAI Comment Letter I.

<sup>316</sup> See Disclosure Request for Comment, *supra* note 20; Processing Fees Request for Comment, *supra* note 21.

## **E. Effective Dates**

### **1. Rule 30e-3**

In the Proposing Release, we stated that because the use of proposed rule 30e-3 would be optional, we believed that a compliance period was unnecessary and expected that funds would be able to rely on the rule immediately after the effective date provided they first transmit an Initial Statement.<sup>317</sup> We requested comment on the proposed compliance dates, and a commenter suggested that the Commission set an effective date six months after date of publication in the *Federal Register* and allow for a transition period of 24 months from the rule's effective date to allow the conditions of the rule to apply gradually (such as applying the rule first to new accounts, and then to existing accounts).<sup>318</sup>

After further consideration, we are adopting an extended transition period with staged effective dates for rule 30e-3 and the related amendments we are adopting today. While rule 30e-3 will become effective on January 1, 2019, the rule provides that a fund may only begin transmitting Notices pursuant to the rule beginning January 1, 2021.<sup>319</sup> For most funds seeking to rely on the rule before January 1, 2022, a temporary condition will require the funds to prominently disclose information on the cover pages of certain documents prior to their reliance on the rule, as discussed in more detail in this release.<sup>320</sup>

We are adopting a delayed effective date of January 1, 2019 to provide funds, broker-dealers and other financial intermediaries, and service providers with an adequate

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<sup>317</sup> Proposing Release, *supra* note 14, at 33654.

<sup>318</sup> See SIFMA Comment Letter.

<sup>319</sup> See rule 30e-3(i).

<sup>320</sup> *Id.*; see *supra* Section II.B.2.f; *infra* Section II.E.2.

period of time to modify systems and operations to accommodate the new transmission framework. Beginning as early as January 1, 2019, however, funds and intermediaries will begin to track investor elections for paper copies of the shareholder report.<sup>321</sup>

## **2. Disclosure Amendments**

As discussed above, we are also requiring funds to provide prominent disclosures on the cover page or beginning of their summary prospectuses, and cover pages of their statutory prospectuses, and annual and semi-annual reports, informing investors of the change in delivery format options if the funds intend to rely on the rule prior to January 1, 2022.<sup>322</sup> These amendments to rule 498 and Forms N-1A, N-2, N-3, N-4, and N-6 will be effective January 1, 2019 for a temporary period of three years (*i.e.*, between January 1, 2019 and December 31, 2021). Effective January 1, 2022, these disclosures will no longer be required, and the related requirements in rule 498 and Forms N-1A, N-2, N-3, N-4, and N-6 will be removed. Additional amendments to rule 498, including an amendment to permit the inclusion of information about electronic delivery, will become effective January 1, 2019 and will remain effective indefinitely.

## **3. Other Amendments**

As also discussed above, we are permitting funds to include content from the shareholder report in the Notice under rule 30e-3(c)(3), provided that funds that choose to

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<sup>321</sup> See rule 30e-3(f). The need to track an investor's preference would be triggered by the first notice the fund provides to the investor that it intends to rely upon the rule to transmit shareholder reports. *Id.* For example, a fund that intends to rely on rule 30e-3 on January 1, 2021 would need to track investor preferences the first time it transmits or delivers a document that includes the required cover page disclosure discussed above. See *supra* Section II.B.2.f. A fund that will rely on rule 30e-3 on January 1, 2022 or thereafter would need to track investor preferences beginning the first time it transmits a Notice.

<sup>322</sup> See *supra* Section II.B.2.f.

transmit Notices with additional information from the shareholder report file those Notices as part of their reports on Form N-CSR.<sup>323</sup> To that end, we are amending Form N-CSR to provide instructions for funds to file such Notices. The amendments to Form N-CSR are effective January 1, 2021.

We are also amending rule 14a-16 under the Exchange Act to include a Notice required by rule 30e-3 among the materials that are permitted to accompany a Notice of Internet Availability of Proxy Materials.<sup>324</sup> The amendments to rule 14a-16 will be effective January 1, 2021.

We are amending Section 800 of 17 CFR Part 200 to display control numbers assigned to information collection requirements for rule 30e-3 by the Office of Management and Budget pursuant to the Paperwork Reduction Act. This amendment is effective January 1, 2019.

#### **4. Communications With Investors During the Extended Transition Period**

As noted earlier, we are persuaded by commenters that the proposed provisions of the rule regarding affirmative and implied consent through use of an Initial Statement would add unnecessary complexity to the implementation of the rule without a corresponding benefit.<sup>325</sup> Instead, we believe that the extended transition period provides a less burdensome framework to alert investors to the change in transmission format.<sup>326</sup>

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<sup>323</sup> See *supra* Section II.B.2.

<sup>324</sup> See *id.*

<sup>325</sup> See *supra* Section II.A.2.

<sup>326</sup> See *supra* Section II.B.2.f.

Although we are requiring most funds, as a condition to relying on rule 30e-3 before January 1, 2022, to include the required disclosures regarding the upcoming change on prospectuses and shareholder reports, we also encourage funds and financial intermediaries (*e.g.*, broker-dealers, insurance companies issuing variable insurance products) to take advantage of the extended transition period to engage with their investors to communicate the forthcoming change through additional appropriate means. Such engagement could further enhance investors' awareness of the upcoming change in delivery method, and provide additional opportunity for investors to select the delivery method most appropriate for their individual circumstances.

We believe that this engagement with investors could build upon funds' and intermediaries' existing efforts to ask investors to elect electronic delivery. It is our understanding that funds and intermediaries periodically solicit investors to opt-into electronic delivery of account and fund related documents, including shareholder reports, in lieu of receiving documents in paper. We are aware that some of these efforts have included:

- *Dedicated electronic delivery website pages* that explain the benefits of electronic delivery (for example, electronic delivery is faster, economical, convenient, secure, and environmentally friendly) and provide instructions and website links that facilitate enrolling in electronic delivery (*e.g.*, by obtaining online access and logging into an account held directly with the fund or through an intermediary and selecting communications preferences). These website pages may include frequently asked questions and information on how to contact a service representative (by phone or email) to facilitate enrollment, and may also highlight

how to receive paper copies of materials upon request, how to update or cancel enrollment, and the procedures followed when an email address provided is invalid or otherwise fails.

- Paper mailing campaigns that provide information similar to the above, including the mailing of inserts that accompany the monthly or quarterly account statement or other regulatory mailings or marketing materials sent to investors.
- Email campaigns that are targeted to investors who have not consented to electronic delivery, but have provided email addresses to funds or their intermediaries on account applications or when obtaining online access.
- Online account alerts or pop-ups that remind investors who have logged into their account page of the availability of electronic delivery and prompt investors to take action.
- Engagement by phone through call scripts which prompt fund or intermediary customer service representatives to highlight electronic delivery options and guide interested investors through the enrollment process.
- Elimination of small balance account service fees and other incentives for investors who sign up for electronic delivery of documents, in lieu of receiving paper documents.

We believe that the levels of internet access and electronic availability and delivery of financial information will continue to increase<sup>327</sup> as a result of the various efforts described above and general trends in technology and demographic changes. We

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<sup>327</sup> See *supra* notes 39–47 and accompanying text.

also continue to believe that electronic delivery and website availability of disclosures are methods that have the potential to significantly improve the communication of information to investors. For example, many fund websites include additional information aside from disclosure documents and other information mandated under our rules such as educational materials, interactive calculators, and investment research tools and materials. Funds and intermediaries will be able to engage with their investors on the benefits of enrolling in electronic delivery and accessing information online, both during the extended transition period and thereafter, and to continue to improve the user-friendliness and content of their websites.

### **III. ECONOMIC ANALYSIS**

#### **A. Introduction**

We are mindful of the importance of assessing the costs and benefits of our rules. Section 2(b) of the Securities Act, Section 3(f) of the Exchange Act, and Section 2(c) of the Investment Company Act require us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in (or, with respect to the Investment Company Act, consistent with) the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.<sup>328</sup> Additionally, Exchange Act Section 23(a)(2) requires us, when adopting rules under the Exchange Act, to consider, among other things, the impact that any new rule would have on competition and not to adopt any rule that would impose a

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<sup>328</sup> 15 U.S.C. 77b(b), 15 U.S.C. 78c(f), 15 U.S.C. 80a-2(c), and 15 U.S.C. 80b-2(c).

burden on competition that is not necessary or appropriate in furtherance of the Exchange Act.<sup>329</sup>

At the outset, the Commission notes that, where possible, it has sought to quantify the costs, benefits, and effects on efficiency, competition, and capital formation expected to result from new rule 30e-3, the amendments to various rules and registration forms, and their reasonable alternatives. The economic effects of new rule 30e-3 are dependent on a number of factors, including the number of funds that rely on the rule; for those funds that rely on the rule, the number of investors that ultimately select paper transmission; the extent to which funds currently rely on Commission guidance to transmit shareholder reports electronically; the extent to which investors currently have opted into electronic delivery;<sup>330</sup> and the extent to which investors become more aware of the website availability of portfolio investment and other information, view the information, and use the information to make investment decisions.

New rule 30e-3 allows funds to satisfy shareholder report transmission requirements by making such reports publicly accessible on a website if they meet certain conditions. This new option is designed to modernize the manner in which periodic information is made available to investors. We believe it will improve the information's overall accessibility while reducing expenses associated with printing and mailing that are borne by funds, and ultimately, by their investors. The rule also draws on the Commission's investor testing efforts and other empirical research concerning investors'

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<sup>329</sup> 15 U.S.C. 78w(a)(2).

<sup>330</sup> *See supra* note 18.

preferences about methods of delivery for required disclosure documents and use of the internet for financial and other purposes generally.<sup>331</sup>

Further, printing and mailing expenses associated with shareholder reports are typically passed on to fund investors through fund expense ratios. Currently, if investors with a preference for electronic delivery do not take the necessary step of affirmatively electing electronic delivery pursuant to the Commission’s current guidance on electronic delivery, the shared costs associated with printing and mailing reports incurred by investors will be higher than if shareholder reports were delivered in paper form only to those investors that have a preference for paper delivery. The new rule, however, creates an optional regulatory structure that eliminates the need for investors to take the step to affirmatively elect electronic delivery and enables funds to make website availability of shareholder reports the default, which will reduce the printing and mailing costs shared by investors while still accommodating the interests of those investors who prefer paper copies.<sup>332</sup>

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<sup>331</sup> See *supra* notes 18, 96, and 97 and accompanying text.

<sup>332</sup> We believe that the change from generally requiring investors to “opt-in” if they wish to receive electronic instead of paper copies of shareholder reports, to—as under the new rule—“opt-out” if they wish to receive paper copies instead of electronic copies will increase the ability of funds to deliver shareholder reports electronically. Although the preferences of investors will not change dependent on the form of consent, economic theory and empirical evidence suggest the likelihood that investors receive electronic transmissions of fund reports will be greater under opt-out consent rather than opt-in consent. See, e.g., Richard H. Thaler and Shlomo Bernatzi, *Save More Tomorrow™: Using Behavioral Economics to Increase Employee Saving*, *Journal of Political Economy*, Vol. 112:1, S164-S187 (2004); Richard H. Thaler and Cass R. Sunstein, *Libertarian Paternalism*, *The American Economic Review*, Vol. 93:2, 175–179 (2003). Thaler and Sunstein argue that a “status quo” bias results in the continuance of existing arrangements even if better options are available. The authors illustrate their argument with higher rates of initial enrollments in employee savings plans when enrollment is automatic as compared to when employees must first complete an enrollment form. The free-riding problem can also contribute to an inefficiently higher rate of paper use under the existing rules. The free-riding problem may arise because while

As we discuss in greater detail below, we estimate that aggregate cost savings, net of compliance costs, after the first year of reliance on rule 30e-3 would be approximately \$141.4 million per year, or approximately 55% of the annual printing and mailing costs under the existing requirements.<sup>333</sup> The share of net cost savings realized by funds that will be actually passed through to investors will affect the net impact of the rule on investors. Given that printing and mailing expenses are fund expenses, we expect that these savings will generally be fully passed along to investors, except perhaps in certain circumstances (*e.g.*, where the fund is operating under an expense limitation arrangement).

For purposes of the estimates below, we aggregate printing and mailing costs for positions held directly and positions held in street name. We assume that the printing and mailing costs are incurred, and cost savings realized, by funds. As discussed above, intermediaries and other third parties incur printing and mailing costs on behalf of funds in instances of positions held in street name, and such intermediaries and other third parties are expected to incur a portion of the aggregate costs and cost savings from rule 30e-3.<sup>334</sup> By one estimate, approximately 75% of accounts are currently held through

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investors must incur effort (albeit small) to switch from paper to electronic delivery under the current rules, those investors that fail to switch from paper still benefit from the aggregate printing and mailing cost savings due to other investors having switched to electronic delivery, thus, an inefficiently low proportion of investors may take the step to switch from paper to electronic delivery.

Under the final rule, which makes website availability the default, some investors with a preference for paper reports may fail to request paper because of the “status quo” bias discussed above. *See infra* Section III.D.2. We lack the data to estimate the number of such investors. There is considerable evidence of investor preferences for enhanced availability of fund information on the internet rather than in paper form. *See supra* note 19.

<sup>333</sup> *See infra* note 373 and *infra* Section III.C.1.

<sup>334</sup> *See supra* Section II.C.

brokers and other intermediaries.<sup>335</sup> We expect that intermediaries and other third parties will continue to pass through most or all shareholder report printing and mailing costs to funds under rule 30e-3, as currently intermediaries and other third parties who perform these functions on behalf of funds under existing requirements pass through printing and mailing costs incurred.

Due to the optional nature of the rule, we expect that, in general, each fund will only rely on the rule if the benefits to that fund exceed the costs. We have provided estimates of the aggregate costs associated with printing and mailing shareholder reports. However, as discussed in further detail below, in certain cases the Commission is unable to quantify other economic effects, such as how the availability of shareholder reports online will affect investors' use of the information, because the Commission lacks the information necessary to provide a reasonable estimate. Where the Commission is unable to quantify the economic effects, the discussion is qualitative in nature and includes, where possible, descriptions of the direction of these effects.

## **B. Economic Baseline and Affected Parties**

The baseline from which we analyze the economic effects of rule 30e-3, as well as the related rule and registration form amendments, is the current set of regulatory requirements under which funds transmit shareholder reports to investors. The baseline also includes the current practice of many funds to make some or all of these reports—or other materials listing portfolio investment information—accessible on their websites. The baseline reflects the fact that some funds transmit these materials electronically today, pursuant to Commission guidance that permits such a transmission method on a

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<sup>335</sup> See *supra* note 275.

shareholder-by-shareholder “opt-in” basis, provided that certain other conditions are met.<sup>336</sup> The baseline also reflects the recently adopted rules and forms and rule and form amendments modernizing the reporting and disclosure of information by registered investment companies,<sup>337</sup> as well as rules established by exchanges related to the transmission of shareholder reports to investors, including the NYSE rule amendments regarding processing fees paid to financial intermediaries.<sup>338</sup>

The parties that could be affected by new rule 30e-3 are funds that currently are or would be required to transmit shareholder reports under rule 30e-1 or 30e-2; shareholders of funds; financial intermediaries and other third parties involved in the distribution of shareholder reports to beneficial owners of funds on behalf of funds; and current and future users of fund portfolio investment information, including investors and third-party information providers. Some commenters have also suggested that the rule may have effects on the environment, the paper industry, and mail carriers.<sup>339</sup>

The assets of all registered investment companies exceeded \$19 trillion at year-end 2016, having grown from about \$5.8 trillion at the end of 1998.<sup>340</sup> Approximately 95.8 million individuals own shares of registered investment companies, representing 55.9 million or 44.4% of U.S. households.<sup>341</sup> Based on industry statistics

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<sup>336</sup> See *supra* note 25 and accompanying text.

<sup>337</sup> See Reporting Modernization Adopting Release, *supra* note 14.

<sup>338</sup> See *supra* notes 32–34 and accompanying text.

<sup>339</sup> See *supra* Section II.A.5.

<sup>340</sup> See 2017 ICI Fact Book, *supra* note 97, at 8.

<sup>341</sup> Among mutual fund-owning households, 63% held funds outside employer-sponsored retirement accounts, with 19% owning funds only outside such plans. See 2017 ICI Fact Book, *supra* note 97, at 121

and staff analysis of Commission filings, we estimate that, as of December 2017, the number of funds that could be affected by rule 30e-3 is 12,630, including 9,360 mutual funds, 1,821 exchange-traded funds (1,829 ETFs less 8 UIT ETFs), 711 closed-end funds, 14 funds that could file registration statements or amendments to registration statements on Form N-3, and 724 UITs.<sup>342</sup> For the reasons discussed below, we continue to estimate, as we did in the proposal, that the number of affected funds that will rely on rule 30e-3 comprises 90% of the number of all funds.<sup>343</sup> Thus, the number of affected funds reflecting updates to the industry data figures is 11,367.<sup>344</sup>

Rules 30e-1 and 30e-2 generally require funds to transmit reports to shareholders at least semi-annually, with holdings as of the end of the second and fourth fiscal quarters disclosed in the fund's semi-annual and annual reports, respectively.<sup>345</sup> Holdings as of the end of the first and third fiscal quarters are currently disclosed in reports on Form N-Q filed with the Commission, which are available on EDGAR.<sup>346</sup> Funds are not required to send first- and third-quarter portfolio holdings information to investors or make that information accessible on their websites.

In addition to providing paper copies of shareholder reports to investors, some funds may voluntarily, or because of other requirements, make some or all of these reports—or other materials listing portfolio holdings at particular times—accessible on

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<sup>342</sup> See *infra* note 476.

<sup>343</sup> See Proposing Release, *supra* note 14, at n.800. See also *infra* note 477 and accompanying and following text.

<sup>344</sup> See *infra* note 478.

<sup>345</sup> See *supra* note 16.

<sup>346</sup> See *supra* note 117 for a discussion of the changes recently adopted by the Commission.

websites. For example, rule 498 under the Securities Act, which concerns the use of a summary prospectus, requires that shareholder reports be made publicly available on a website if a summary prospectus is used.<sup>347</sup>

Under existing Commission guidance, funds can transmit shareholder reports or other documents electronically in lieu of paper delivery if they satisfy certain conditions relating to investor notice, access, and evidence of delivery. The Commission's guidance indicates that one way evidence of delivery can be demonstrated as to an investor is if an investor has agreed to electronic transmission on an affirmative "opt-in" basis.

Some shareholder reports are currently transmitted electronically under this guidance. One commenter estimated that 43% of reports to street name holders are delivered electronically and projected that 59% of reports to street name holders will be delivered electronically in 2018.<sup>348</sup> By one estimate, approximately 75% of accounts are currently held through brokers and other intermediaries.<sup>349</sup>

While these figures demonstrate that electronic delivery is used for a significant proportion of shareholder reports (which affects the baseline printing and mailing costs across funds under the existing requirements), because a fund is not required to report to the Commission the extent to which it relies on Commission guidance, we lack

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<sup>347</sup> See *infra* note 474 and accompanying text.

<sup>348</sup> See Broadridge Comment Letter I. The commenter also estimated that the rate of electronic delivery of reports held in street name would reach 54% by June 2017 and 59% by June 2018. However, the commenter noted that "e-delivery rates for direct-sold accounts lag those of the street." See Broadridge Meeting Memo I.

Another commenter stated that for accounts held directly, "an informal sampling of some of our members with direct-at-fund business showed an average e-delivery rate of about 40 percent." See ICI Comment Letter I.

<sup>349</sup> See *supra* note 275.

information to estimate the percentage of funds that solely or predominantly rely on electronic delivery under existing Commission guidance. We recognize, consistent with the comments we have received, that electronic delivery of reports to some investors under existing Commission guidance may continue to reduce printing and mailing costs in the future, regardless of whether rule 30e-3 is adopted.<sup>350</sup>

In the Proposing Release, we estimated aggregate annual printing and mailing costs under the existing requirements to be approximately \$116.4 million.<sup>351</sup> Based on the estimates provided by commenters,<sup>352</sup> we recognize that printing and mailing costs

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<sup>350</sup> See, e.g., Broadridge Comment Letter I.

<sup>351</sup> \$116,368,583. See Proposing Release, *supra* note 14, at n.707. Printing and mailing costs (inclusive of processing fees) were estimated to be approximately \$10,354 ( $\$31,061 \div 3$ ) per fund, and approximately \$6,667 ( $\$20,000 \div 3$ ) per UIT. See Proposing Release, *supra* note 14, nn.777, 790.

<sup>352</sup> One commenter estimated aggregate industry printing and mailing costs under the existing requirements, providing an estimate of \$344 million. See *supra* note 70 and accompanying text. Another commenter provided an estimate of \$354 million (projected to be \$382 million in 2018) for fund positions held in street name, which the commenter estimated comprised approximately 75% of all fund positions. See *supra* note 74 and accompanying text. If printing and mailing costs for fund positions held directly are similar to those for funds held in street name, aggregate printing and mailing costs would be  $\$354 \text{ million} \div 0.75 = \$472 \text{ million}$ . We recognize that average printing and mailing costs for fund positions held directly could be higher if such funds rely less on electronic delivery. See *supra* note 348. The average of the estimate of aggregate costs provided by the first commenter and the estimate of aggregate costs based on the information provided by the second commenter is  $(\$344 \text{ million} + \$472 \text{ million}) \div 2 = \$408 \text{ million}$ . Several other commenters provided estimates of their own costs of printing and mailing shareholder reports but did not provide sufficient information to estimate aggregate industry costs. See, e.g., T. Rowe Price Comment Letter I (indicating that its fund group spends approximately \$3.8 million annually to print and mail shareholder reports to direct fund investors); Schwab Comment Letter (stating that annual printing and mailing costs to deliver the annual and semi-annual shareholder reports to shareholders of all of its funds are approximately \$4 million); MFS Comment Letter (stating that its annual printing and mailing costs were \$7.2 million); Capital Research Comment Letter I (stating that its annual printing and mailing costs for semi-annual shareholder reports were approximately \$17.7 million and for annual reports—approximately \$28 million but clarifying that, since the summary prospectus is included with its annual shareholder reports, the amount attributable to annual shareholder reports is approximately \$14.8 million); Capital Research Comment Letter II (estimating the cost for mailing production expense, postage expense, freight expense and print and design expense for semi-annual and annual

under the existing requirements estimated in the proposal may have been understated and we are doubling our estimated share of printing and mailing costs under existing requirements in the external costs of rules 30e-1 and 30e-2. Based on this change to the assumptions in our estimate and the use of updated industry figures on the number of funds, our revised estimate of aggregate annual printing and mailing costs under the existing requirements is approximately \$256.2 million.<sup>353</sup> The revised estimate is close to the average of the estimate in the proposal and the average of aggregate cost estimates based on commenter estimates.<sup>354</sup>

### C. Benefits

Rule 30e-3, to the extent that it is relied upon by funds, will likely provide benefits to both current and prospective investors. First, the rule is expected to benefit funds and their investors by reducing aggregate expenses related to the delivery of paper shareholder reports. Second, we believe that the rule may facilitate investor review of periodic information by increasing its overall accessibility. We discuss these benefits in greater detail below.

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shareholder reports for the period from July 2016 to June 2017 at approximately \$28 million); Blackrock Comment Letter (estimating its printing and distribution costs to be approximately \$30 million per year).

<sup>353</sup> See *infra* note 544 and accompanying text. Printing and mailing costs (inclusive of processing fees) were estimated to be approximately \$10,354 ( $\$31,061 \div 3$ ) per fund, and approximately \$6,667 ( $\$20,000 \div 3$ ) per UIT. See Proposing Release, *supra* note 14, nn.777, 790. Doubling those estimates results in printing and mailing costs of approximately \$20,707.33 ( $\$31,061 \times \frac{2}{3}$ ) per fund and approximately \$13,333.33 ( $\$20,000 \times \frac{2}{3}$ ) per UIT.

Using 2017 industry figures, we estimate that there are 11,906 funds and 724 UITs. See *infra* note 476. Thus, aggregate annual printing and mailing costs under the existing requirements ( $(\$31,061 \times \frac{2}{3}) \times 11,906 + (\$20,000 \times \frac{2}{3}) \times 724$ ) = \$256,194,844.

<sup>354</sup> ( $\$116.4 \text{ million} + \$408 \text{ million}$ )  $\div 2 = \$262.2 \text{ million}$ . See *supra* notes 351–352.

We are unable to determine how likely it is that the costs would be close to the lower or upper bound of the range, thus, we present the midpoint of the range for reference.

The expected benefits described below will not necessarily be distributed uniformly across all funds that choose to rely on rule 30e-3. First, funds that currently have low printing and mailing costs—for example, because they have shorter shareholder reports or lower per-page printing costs—will realize smaller net cost savings from rule 30e-3. Similarly, funds that deliver many of their shareholder reports electronically in reliance on existing Commission guidance will realize smaller net cost savings from rule 30e-3, although they may still realize net cost savings associated with those investors who do not opt into electronic delivery. Further, even if the net cost savings from rule 30e-3 are small, investors and funds may still realize some benefits from website accessibility of first- and third-quarter portfolio holdings information that currently may be found only on EDGAR.

Second, when funds presently rely on rule 498, which among its requirements includes website posting of shareholder reports when using a summary prospectus, the potential benefits to investors of having the shareholder report available in an electronic format alongside other fund information will likely be smaller. However, funds that presently rely on rule 498 may still realize net cost savings from no longer printing and mailing as many shareholder reports. The use of rule 30e-3 by funds that presently rely on rule 498 will also result in the benefits to investors of website accessibility of fund portfolio holdings information for the first and third fiscal quarters.

Funds that choose to rely on rule 30e-3 could be at a competitive advantage if investors choose funds based on their preference for website availability, either because investors prefer to view shareholder reports electronically or because funds that rely on rule 30e-3 could have lower expense ratios due to savings of printing and mailing costs.

Additionally, as discussed above, some commenters discussed potential benefits of rule 30e-3 for the environment.<sup>355</sup>

As discussed in Section II.E above, in a change from the proposal, we are adopting an extended transition period with staggered effective dates for new rule 30e-3 and the other amendments adopted today. This extended transition period would defer the realization of the benefits discussed above. However, it would provide the separate benefit of enabling investors more time to become informed of the potential forthcoming change in the delivery manner of their shareholder reports and also provide funds, financial intermediaries, and service providers with a period of time to modify systems and operations to accommodate the new shareholder report delivery framework.

As discussed in Section II.B.3 above, in a change from the proposal, we are also amending rule 498 to permit a summary prospectus to include a description of how a shareholder can elect to receive prospectuses or other documents and communications by electronic delivery.<sup>356</sup> This provision is expected to enhance investor awareness of how to request shareholder reports and related fund materials in the investor's preferred format while enabling additional efficiencies in shareholder report delivery for funds. To the extent that the option to include with a summary prospectus instructions describing how investors may elect electronic delivery will increase the likelihood that investors with a preference for electronic delivery communicate their preference to the fund, this amendment to rule 498 is expected to contribute to increased reliance on electronic delivery under the existing Commission guidance. Consistent with the printing and

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<sup>355</sup> See *supra* Section II.A.5.

<sup>356</sup> See *supra* note 265 and accompanying text.

mailing cost savings, this would result in benefits to funds, and in turn, investors, from the final rules. Further, if electronic delivery facilitates increased investor access to, and review of, fund information, this amendment to rule 498 may result in better informed investor decisions and more efficient allocation of investor capital. If investors increasingly elect electronic delivery as a result of this amendment to rule 498, the magnitude of the benefits incremental to reliance on rule 30e-3 from printing and mailing cost savings and increased investor review will decrease. We lack the information to quantify the increase in electronic delivery use that would be incremental to this amendment to rule 498 and thus how the magnitude of the benefits expected from this amendment to rule 498 will compare to the reduction in the benefits incremental to the reliance of funds on rule 30e-3.

#### **1. Cost Savings**

We anticipate that funds relying on rule 30e-3, and their investors, will benefit from gains in the efficiency and a reduction in the expenses related to the distribution of paper shareholder reports. Although the rule will have minimal effect, if any, on the expenses associated with the preparation of reports, we expect that the expenses associated with printing and mailing of shareholder reports will be substantially reduced. By reducing fund expenses, printing and mailing cost savings are expected to increase the portion of investor money that is retained in the fund rather than used to cover expenses, resulting, over time, in a net positive effect on the level of capital invested in funds. Furthermore, to the extent that reductions in fund expenses due to printing and mailing cost savings have a positive effect on fund performance and attract new investors or additional capital from existing investors, the rule may result in further capital formation benefits. We are unable to precisely estimate the magnitude of capital formation effects

that may result from our projected cost savings under the rule because the magnitude of such effects may be affected by the extent of pass-through of cost savings and by other factors that affect the flow of investor capital into mutual funds, including other components of fund returns, overall market returns, and returns on investments other than funds.

Specifically, because the new rule provides a structure for making website accessibility of shareholder reports and other materials the default delivery method, funds relying on rule 30e-3 will only incur printing and mailing costs as necessary to accommodate those investors opting for paper, and printing and mailing costs associated with Notices delivered to investors who have not made such an election.

As we have recognized in the past, affirmative shareholder consent can be difficult to obtain even for practices that many shareholders may prefer,<sup>357</sup> resulting, under the existing regime, in more investors receiving paper copies than may be truly reflective of preferences and thus higher shared costs associated with that excess paper distribution. While it is still possible under the new rule that some investors may not take the affirmative steps necessary to express their transmission preference—in this case, to request paper delivery—investors in the fund will not share any unnecessary printing and mailing costs for those investors, as the default is website accessibility. Under the new rule, funds relying on rule 30e-3 will only incur costs of distribution of paper reports and other materials for those investors who request delivery in that format.

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<sup>357</sup> See Investment Company Act Release No. 22884 (Nov. 13, 1997) [62 FR 61933, 61935 (Nov. 20, 1997)] (concerning implied consent to delivery of disclosure documents to households); *see also supra* note 332.

In the Proposing Release, we estimated approximately \$105 million in annual (gross) cost savings if the proposed rule were adopted.<sup>358</sup> Net of annual costs of compliance with rule 30e-3, which we estimated to be approximately \$32 million after the first year,<sup>359</sup> annual net savings were estimated to be approximately \$73 million in the aggregate, or approximately 63% of printing and mailing costs under the existing requirements, as estimated in the Proposing Release.<sup>360</sup>

Several commenters provided alternative estimates of potential cost savings associated with the printing and mailing of shareholder reports under the proposed rule.<sup>361</sup> For example, one commenter asserted that electronic delivery is already common and thus concluded that fund companies would only save about \$18 million<sup>362</sup> in 2018, which would represent approximately a 4.7% net reduction in ongoing printing and mailing costs projected by the commenter under the existing rules.<sup>363</sup> Another commenter estimated savings over the first three years after implementation, netting out initial costs, of \$140 million.<sup>364</sup> This commenter also projected ongoing annual savings after the first year of \$89 million, which would represent approximately a 25.9%

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<sup>358</sup> \$104,731,725. See Proposing Release, *supra* note 14, at n.815.

<sup>359</sup> \$31,531,880. See Proposing Release, *supra* note 14, at n.717.

<sup>360</sup>  $\$104,731,725 - \$31,531,880 = \$73,199,845$ .  $\$73,199,845 \div \$116,368,583 = 63\%$ . See *supra* note 351.

<sup>361</sup> See also *supra* note 352 for a discussion of printing and mailing expenses provided by commenters.

<sup>362</sup> See Broadridge I Comment Letter. This dollar estimate of cost savings, however, likely understates potential cost savings since it was calculated using processing fees expected to be charged by intermediaries prior to the Commission approval of the NYSE rule that modifies processing fees.

<sup>363</sup> *Id.* The commenter projected costs to be \$382 million in fiscal year 2018 under the baseline.  $\$18 \text{ million} \div \$382 \text{ million} = 4.7\%$ .

<sup>364</sup> See ICI Comment Letter I; Fidelity Comment Letter II (citing the ICI estimate).

reduction in existing costs as estimated by the commenter.<sup>365</sup> This commenter also suggested that, should the Commission remove the postage-paid reply form requirement, net savings could reach \$465 million over the first three years and ongoing annual savings could reach \$182 million after the first year, or approximately a 53% reduction in existing costs as estimated by the commenter.<sup>366</sup>

Another commenter estimated that the proposed rule would result in savings of up to 50%.<sup>367</sup> Another commenter stated that the commenter's annual printing and mailing costs to deliver the annual and semi-annual shareholder reports to shareholders of all of its funds are approximately \$4 million and projected annual cost savings under the proposed rule to be \$1.7 million,<sup>368</sup> which would amount to a reduction of approximately 43%. We note that commenter methodologies with regard to projected cost savings varied, and thus, commenter estimates may not be directly comparable to each other or to our estimates.

After considering the estimates and information provided by commenters about the potential factors that may affect net cost savings on an ongoing basis, and after considering the changes made in the final rule from the proposal, we have revised the estimates of annual gross cost savings and annual costs of relying on rule 30e-3.

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<sup>365</sup> ICI Comment Letter I. The commenter estimated current costs at \$344 million.  $\$89 \text{ million} \div \$344 \text{ million} = 25.9\%$ .

<sup>366</sup> ICI Comment Letter I. The commenter estimated current costs at \$344 million.  $\$182 \text{ million} \div \$344 \text{ million} = 52.9\%$ .

<sup>367</sup> See T. Rowe Price Comment Letter I.

<sup>368</sup> See Schwab Comment Letter.

First, we have revised our estimate of gross annual cost savings for the funds that rely on rule 30e-3, estimated to be \$105 million in the proposal.<sup>369</sup> We continue to estimate, as we did in the proposal, that 90% of funds will rely on rule 30e-3,<sup>370</sup> resulting in gross annual cost savings of 90% of the annual printing and mailing costs under the existing requirements. However, as discussed in greater detail in Section III.B above, after considering commenters' estimates and updated industry figures on the number of funds, we have revised our estimate of printing and mailing costs under the existing requirements to approximately \$256.2 million.<sup>371</sup> As a result, we now estimate gross annual cost savings to be approximately \$230.6 million.<sup>372</sup>

Second, after considering comments regarding printing and mailing costs for funds that rely on rule 30e-3, and after considering modifications to the final rule from the proposal, we have revised the estimated costs of relying on rule 30e-3. As we discuss in greater detail in Section III.D.1 below, we now estimate that, after the first year of reliance on rule 30e-3, aggregate annual costs of relying on the rule will be approximately \$89.2 million, yielding aggregate annual net cost savings of approximately \$141.4 million, or approximately 55% of the annual printing and mailing costs under the

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<sup>369</sup> See *supra* note 358 and accompanying text.

<sup>370</sup> See *supra* Section III.B and *supra* note 353 and accompanying and following text.

<sup>371</sup> See *supra* note 353 and accompanying text.

<sup>372</sup> We continue to estimate, as we did in the proposal, that the number of affected funds that will rely on rule 30e-3 comprises 90% of the number of all funds. See *supra* note 343 and accompanying text. As discussed above, we estimate aggregate annual printing and mailing costs under the existing requirements to be approximately \$256.2 million. See *supra* note 353 and accompanying text. Thus, we estimate gross aggregate annual savings of printing and mailing costs as the aggregate annual printing and mailing costs multiplied by the percentage of funds expected to rely on rule 30e-3:  $90\% \times \$256,194,844 = \$230,575,360$ . We recognize that these cost savings represent a small fraction of assets under management of registered management companies. See *supra* note 340 and accompanying text.

existing requirements.<sup>373</sup> In addition, prior to the effectiveness of rule 30e-3, we expect funds to incur aggregate costs of compliance with the disclosure amendments of the final rule of approximately \$8.2 million in the first year and \$4.8 million in the second year.<sup>374</sup>

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<sup>373</sup> Annual printing and mailing costs under the existing requirements were estimated to be \$256,194,844. *See supra* note 353. We estimated that 90% of funds will rely on rule 30e-3, which would result in an estimated annual gross savings of \$230,575,360. *See supra* note 372.

After the first year of reliance on rule 30e-3, the aggregate annual compliance cost of rule 30e-3 is estimated to be \$89,202,128. *See infra* note 393.

Annual savings from rule 30e-3, net of compliance costs, as a share of annual printing and mailing costs under the existing requirements are estimated to be:

$$\$230,575,360 - \$89,202,128 = \$141,373,232. \quad \$141,373,232 \div \$256,194,844 = 55\%.$$

The revised estimates also reflect revised estimates of the number of funds updated to reflect industry figures and revised requirements of the final rule.

<sup>374</sup> *See infra* notes 419–420.

### Potential aggregate cost savings from reliance on rule 30e-3

Source of cost/cost savings	Transition period (\$ million)	Year 1 (\$ million per year)	Year 2 + (\$ million per year)
<b>Gross savings from rule 30e-3<sup>375</sup></b>		<b>230.6</b>	<b>230.6</b>
<b>Costs of complying with rule 30e-3<sup>376</sup></b>	<b>-13.0</b>	<b>-93.9</b>	<b>-89.2</b>
Prominent disclosures <sup>377</sup>	-13.0		
Website accessibility requirements <sup>378</sup>		-3.2	-2.7
Notice preparation <sup>379</sup>		-14.3	-10.2
Printing and mailing costs (Notices and paper requests) <sup>380</sup>		-76.3	-76.3
<b>Net savings from rule 30e-3<sup>381</sup></b>	<b>-13.0</b>	<b>136.7</b>	<b>141.4</b>

If a smaller percentage of funds than the 90% we estimate ultimately rely on rule 30e-3, the aggregate net cost savings from rule 30e-3 will accordingly be lower. Further, as discussed above, some commenters have indicated that funds can presently rely on electronic delivery of shareholder reports pursuant to Commission guidance.<sup>382</sup> We note that funds that choose to rely on rule 30e-3 may continue to use electronic delivery pursuant to Commission guidance for some of their shareholder reports. We estimate

<sup>375</sup> See *supra* note 372.

<sup>376</sup> See *infra* notes 392 and 393.

<sup>377</sup> \$13.0 million = \$8.2 million + \$4.8 million. See *infra* notes 419–420 and *infra* Section III.D.1.d.

<sup>378</sup> See *infra* note 396 and *infra* Section III.D.1.a.

<sup>379</sup> See *infra* note 402 and *infra* Section III.D.1.b.

<sup>380</sup> See *infra* note 408 and *infra* Section III.D.1.c

<sup>381</sup> \$136.7 million = \$230.6 million - \$93.9 million.

\$141.4 million = \$230.6 million - \$89.2 million.

Rounding may affect totals.

<sup>382</sup> See *supra* note 348 and accompanying and following text.

cost savings relative to the baseline of the average printing and mailing costs under the requirements that exist today, which factors in the current use of electronic delivery under Commission guidance for reports to some investors. If aggregate printing and mailing costs incurred by funds that do not rely on rule 30e-3 continue to decrease over time, for instance as a result of growth of electronic delivery, either as part of broad industry trends or as a result of the amendments to rule 498 permitting funds to include electronic delivery instructions with a summary prospectus, annual printing and mailing cost savings under rule 30e-3 in future years may be lower than estimated.

There likely is variation across individual funds both in existing printing and mailing costs and in cost savings and compliance costs that are expected on an initial or ongoing basis from rule 30e-3, depending on the extent of reliance on electronic delivery under Commission guidance. Although we cannot comprehensively quantify such differences, for instance, because of uncertainty about the future rate of growth in the use of electronic delivery under Commission guidance by funds that choose to rely on rule 30e-3, we recognize that funds that rely on rule 30e-3 may realize smaller net cost savings if they rely to a greater extent on electronic delivery of shareholder reports under existing Commission guidance.

## **2. Increased Access to and Review of Portfolio Information and Shareholder Reports**

To the extent that funds elect to rely on rule 30e-3, the rule will also increase the electronic accessibility to investors of portfolio investment information from the first and third fiscal quarters (or from the second and fourth fiscal quarters if a shareholder report contained a summary schedule of portfolio holdings) that might otherwise be only available on EDGAR, which in turn may result in greater investor review of that

information. In addition, because the portfolio information must be publicly available on a website in the same location as the shareholder reports required to be posted on the website, the rule could further increase the likelihood that both existing investors and potential future fund investors review the portfolio information for the first and third quarters when they review the shareholder reports. To the extent that investors seeking information about an individual fund are likely to visit the specified website, having many of a fund's important shareholder documents in a single location on the fund's website could increase the visibility of, and facilitate access to, that information for current and future investors.

Importantly, the rule will increase website accessibility of shareholder reports to investors. Although among the funds expected to rely on rule 30e-3, approximately 90% of funds are estimated to make their shareholder reports publicly available online (consistent with the proportion of funds estimated to rely on rule 498, which requires the posting of shareholder reports on the fund's website), for the remaining funds that do not currently rely on rule 498, relying on rule 30e-3 may make shareholder reports more accessible to the public, to the extent that they do not already post shareholder reports on their websites, which may result in greater investor review of the information contained therein.<sup>383</sup> Funds that presently rely on rule 498 will likely experience smaller benefits of increased access and review of fund information by investors. However, such funds may still experience net cost savings from no longer printing and mailing shareholder reports, as well as the benefits of website accessibility of fund portfolio holdings information.

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<sup>383</sup> See *infra* note 557 and accompanying text. 11,367 funds estimated to rely on rule 30e-3 - 9,057 funds estimated to rely on rule 498 = 2,310 funds estimated to rely on rule 30e-3 and do not rely on rule 498.

Greater use of shareholder reports and portfolio information by current and potential future investors could result in more informed investment decisions and an increase in competition among funds for investor capital. A better understanding of fund investment strategies, portfolio composition, and investment risks could also result in a more efficient allocation of capital across funds and other investments. An increase in the ability of investors to access and review information about different funds also could increase the competition among funds for investor capital.

Furthermore, during the extended transition period, funds intending to rely on rule 30e-3 will be required to include prominent disclosures on the cover page or beginning of their summary, and cover pages of their statutory prospectuses, and annual and semi-annual shareholder reports for up to two years before beginning to deliver Notices under the rule.<sup>384</sup> These prominent disclosures during the extended transition period are expected to enhance investors' overall awareness of the upcoming changes in the shareholder report delivery format options under rule 30e-3, including the fact that investors will be able to retain delivery of their reports in paper if they should so desire. The prominent disclosures are also expected to notify investors if their fund intends to rely on the rule and provide investors wishing to continue to receive paper shareholder reports additional opportunities to make that election. Some funds that intend to rely on the rule may decide not to include these temporary prominent disclosures. For example, for existing funds that delay to make the election to rely on rule 30e-3 until 2021, the earliest these funds would be able to rely on the rule would be January 1, 2022. Although such funds would not be required to include prominent disclosures during the last year of

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<sup>384</sup> See *supra* Section II.B.2.d.

the extended transition period as a condition of reliance on the rule, their investors may realize some of the benefit of increased awareness of the changes in the shareholder report delivery regime under rule 30e-3 to the extent that these investors hold positions in other funds, including funds with the same sponsor, that had made such prominent disclosures during the extended transition period.

Further, as discussed in Section II.B.3 above, in a change from the proposal, we are permitting funds that elect to rely on rule 30e-3 to incorporate in the Notice, in addition to a website address, other equivalent methods or means to facilitate shareholder access to the website address. Such methods or means could include, for example, a Quick Response Code (QR code) or similar information that leads to the required website address. This change is expected to provide additional optional methods by which investors can access shareholder reports on the website, which, depending on the method, could result in a reduction in the effort and time required for investors to access the shareholder report.

Finally, as discussed in Section II.B.3 above, in a change from the proposal, the final rule permits a Notice to include pictures, logos, or similar design elements so long as the design is not misleading and the information is clear, as well as additional information about the fund, so long as it is limited to information contained in the shareholder report for which Notice is being given.<sup>385</sup> This provision could facilitate the addition of content by funds that attracts additional investor attention to the Notice, yet by its terms does not obscure important information contained in the Notice. Further, the flexibility provided to funds to include content from the shareholder report in the Notice

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<sup>385</sup> See rule 30e-3(c)(3).

may result in investors who may otherwise not review the shareholder report seeing useful information from such reports.

#### **D. Costs**

Funds that rely on rule 30e-3 will incur costs to comply with the rule's conditions. These and other costs are discussed below. Because reliance on rule 30e-3 will be optional, a particular fund is not expected to rely on the rule if the costs to the fund to rely on the rule exceed its benefits. Funds that deem the costs of meeting the conditions of rule 30e-3 to exceed the benefits of this optional rule are expected to elect not to rely on the rule and therefore not incur any compliance costs associated with rule 30e-3. Among investors in funds that elect to rely on the rule, investors with a preference for paper delivery that fail to express it may be less likely to review the information in the reports because it is not presented in their preferred format.

As we discussed in Section II.E above, we are adopting an extended transition period with staged effective dates. This will defer the time when the costs of compliance with rule 30e-3 discussed in Sections III.D.1.a through III.D.1.c below will be incurred.

#### **1. Compliance Costs**

Relative to the baseline, funds relying on the new rule will incur compliance costs associated with satisfying the conditions of the rule, as discussed below. To the extent possible, we have attempted to quantify these costs.

We have made various modifications to the requirements of the final rule from the proposal, as described in Section II above, in part to address issues raised by commenters. To increase investor awareness of a fund's intention to rely on rule 30e-3 and to inform investors of the upcoming changes in the transmission method, in a change from the proposal, we are adopting an extended transition period with staged effective dates and a

temporary condition requiring funds to include during the extended transition period certain disclosures on summary prospectuses, statutory prospectuses and shareholder reports for up to two years prior to the date a fund would begin sending Notices in reliance on the rule. As a result of this provision, the compliance costs for funds that rely on rule 30e-3 will be higher than the compliance costs that would have been incurred under the proposal, as discussed in Sections III.D.1.c and III.D.1.d below.

However, we have also made modifications from the proposal as a result of which the compliance costs will be lower than the compliance costs that would have been incurred under the proposal. In particular, in a change from the proposal, we are no longer requiring funds to provide the Initial Statement. Therefore, the cost estimates are revised from the proposal to reflect the elimination of the burden of preparing the Initial Statement.<sup>386</sup> Further, we are permitting the combination of Notices with other Notices,

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<sup>386</sup> We estimate that requiring an Initial Statement would have resulted in additional preparation, printing, mailing, and processing costs of approximately \$41.5 million in the aggregate in the first year and \$13.8 million in the aggregate in each subsequent year.

In the Proposing Release, preparing one Initial Statement was estimated to require 1.5 burden hours in the first year and 0.5 burden hours in each subsequent year, with 25% of that burden carried by outside counsel. *See* Proposing Release, *supra* note 14, at 33679. We retain this estimate. Using updated salary figures, we monetize internal personnel time at \$353 per hour and outside counsel time at \$401 per hour. *See infra* notes 404, 509. Using updated salary figures, preparing the Initial Statement would have cost approximately \$548 ( $1.5 \times (0.75 \times \$353 + 0.25 \times \$401)$ ) in the first year and \$183 ( $0.5 \times (0.75 \times \$353 + 0.25 \times \$401)$ ) in each subsequent year.

In the Proposing Release, we estimated printing and mailing costs for one Notice or Initial Statement to be \$1,000. *See* Proposing Release, *supra* note 14, at 33680. In light of the comments on the proposal, we have revised our estimate of the printing and mailing costs for one Notice to \$3,106. *See infra* note 525. Thus, we are similarly revising the estimated printing and mailing cost for the first Initial Statement to \$3,106. In the Proposing Release, we estimated that the cost in each subsequent year would be one-third of the cost for the first year because Initial Statements would only be sent to new shareholders. *See* Proposing Release, *supra* note 14, 33680. We retain this estimate.

Based on updated industry figures, we now estimate that 11,367 funds will elect to rely on rule 30e-3. *See infra* note 478. Thus, the aggregate cost is estimated to be \$41,535,018

expanding documents that may accompany Notices, and eliminating reply cards with respect to Notices. Permitting Notices to be bundled with additional types of materials under the final rules may result in lower postage costs, compared to the postage costs that would have been incurred under the proposal, by reducing the need for a separate mailing, although other costs associated with the Notice would still be incurred.<sup>387</sup> Eliminating reply cards for Notices is also expected to result in lower costs compared to the costs that would have been incurred under the proposal.<sup>388</sup>

As we discuss in Section II.B.3 above, in a modification from the proposal, we are permitting funds to incorporate content from the shareholder report in Notices relating to shareholder reports required to be transmitted under rule 30e-1. However, funds may incur additional costs for incorporating content from the shareholder report into the Notice and filing such Notices with reports on Form N-CSR, as well as potentially increase their printing and mailing costs, depending on the length of the Notice. We expect that funds will only elect to include content from shareholder reports in Notices if they believe the benefits to funds and investors outweigh the increase in their costs of

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( $11,367 \times (\$548 + \$3,106)$ ) in the first year and \$13,848,795 ( $11,367 \times (\$183 + \$3,106 \times \frac{1}{3})$ ) in each subsequent year.

One commenter estimated cost savings from the elimination of the Initial Statement to be approximately \$60 million. *See* Broadridge Meeting Memo II, at 6.

<sup>387</sup> Similar to the proposal, the Notice is permitted to accompany a current summary prospectus, statutory prospectus, statement of additional information, or Notice of Internet Availability of Proxy Materials under rule 14a-16. As proposed, rule 14a-16 is amended to permit the bundling of Notices with Notices of Internet Availability of Proxy Materials. In addition, the final rule also permits the Notice to accompany one or more Notices for other funds; the investor's account statement; and in the case of a fund that is available as an investment option in a variable annuity or variable life insurance contract, the contract, the contract's statutory prospectus, or the contract's statement of additional information.

<sup>388</sup> *See supra* note 173 and accompanying text.

preparing and distributing Notices with additional content. Likewise, funds may choose to deploy certain additional optional methods to facilitate access of shareholder reports (e.g., QR codes) if they believe the benefits to funds and investors outweigh the additional costs to do so.

As discussed in Section IV.C below, we have reflected these modifications, as well as commenter input, in the revised burden estimates for the Notice for purposes of the Paperwork Reduction Act of 1995, which we incorporate in the cost analysis below.

We have also specified that the schedule of portfolio investment information as of the end of the first and third fiscal quarters must be presented in a manner consistent with the reporting requirements of Regulation S-X. As most funds have established procedures in place to prepare and review such disclosures and familiarity with the disclosure requirements, this provision should not result in significant compliance costs.

As we discuss below, we have also revised certain assumptions underlying our estimates. First, we have revised our estimate of the number of funds that will rely on rule 30e-3 upward to 11,367 to reflect updates to the industry data figures that were utilized in the Proposing Release.<sup>389</sup> We note that, similar to our discussion of the benefits in Section III.C.1, if a smaller number of funds choose to rely on rule 30e-3 than we estimate, the above estimates would overstate the actual costs incurred in the aggregate by the funds that rely on rule 30e-3.

Second, where applicable, we have attempted to address comments related to our estimates. Two commenters stated that the proposal underestimated the costs under rule 30e-3 (for instance, processing fees for broker-held accounts) and thus overestimated the

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<sup>389</sup> See *supra* note 344 and accompanying text; *infra* note 478.

net cost savings expected under rule 30e-3.<sup>390</sup> However, to be conservative in our estimates, we have revised upward our estimate of the printing and mailing costs that funds will incur under rule 30e-3, as discussed in Sections III.D.1.c and IV.B below.

In the Proposing Release, we estimated that compliance costs of rule 30e-3 would be, in the aggregate, approximately \$32 million each year, with approximately \$16 million in additional one-time costs being incurred in the first year following the effective date (resulting in aggregate compliance costs of approximately \$48 million in the first year).<sup>391</sup> We now estimate that these compliance costs will be, in the aggregate, approximately \$93.9 million in the first year following the effective date<sup>392</sup> and approximately \$89.2 million each following year on an ongoing basis.<sup>393</sup> Individual components of these aggregate estimated costs are analyzed in Sections III.D.1.a through III.D.1.c below. In addition, as discussed in Section III.D.1.d below, during the approximately two years before the effective date of rule 30e-3, we estimate that the disclosure requirements related to rule 498 and amendments to registration statements will result in aggregate costs to funds that intend to rely upon rule 30e-3 of approximately \$8.2 million in the first year<sup>394</sup> and \$4.8 million in the second year.<sup>395</sup>

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<sup>390</sup> See ICI Comment Letter III; Broadridge Comment Letter I. As noted above, we approved amendments to NYSE rules that clarify the application of certain processing fees paid to financial intermediaries. See *supra* notes 32 to 36 and accompanying text.

<sup>391</sup> See Proposing Release, *supra* note 14, at nn.717–718.

<sup>392</sup> The estimate of \$93,867,993 is based upon the following calculations: \$3,231,520 associated with website accessibility requirements + \$14,341,169 associated with Notice preparation + \$76,295,304 in printing, mailing, and processing costs. See *infra* notes 396, 402, 408.

<sup>393</sup> The estimate of \$89,202,128 is based upon the following calculations: \$2,711,680 associated with website accessibility requirements + \$10,195,144 associated with Notice preparation + \$76,295,304 in printing, mailing, and processing costs. See *infra* notes 396, 402, 408.

<sup>394</sup> See *infra* note 419.

**a. Website Accessibility of Shareholder Reports and Other Materials**

Funds that rely on rule 30e-3 in the aggregate are expected to incur costs of approximately \$3.2 million in the first year of relying on rule 30e-3 and \$2.7 million in each subsequent year to make the shareholder reports and portfolio information publicly accessible at a specified website.<sup>396</sup>

We estimate that funds that elect to rely on rule 30e-3 will incur, in the aggregate, approximately 9,386 burden hours during the first year of relying on rule 30e-3 and 8,476 burden hours each following year to comply with the website posting requirements of the rule.<sup>397</sup> Based on an estimated wage rate of about \$320 per hour,<sup>398</sup> we estimate the aggregate paperwork related expenses for funds associated with the internal hour burden imposed by the website accessibility conditions of rule 30e-3 to be approximately \$3.0 million during the first year and \$2.7 million each following year.<sup>399</sup>

In the aggregate, we estimate that the total external cost for funds to comply with the website posting requirements of the rule will be approximately \$228,000 during the

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<sup>395</sup> See *infra* note 420.

<sup>396</sup> See *infra* notes 399, 400. In the first year:  $\$3,003,520 + \$228,000 = \$3,231,520$ . In each subsequent year:  $\$2,711,680$ .

<sup>397</sup> See *infra* notes 488–489.

<sup>398</sup> The Commission estimates the wage rate associated with these burden hours based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association. The estimated wage figure is based on published rates for senior programmers, modified to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, and adjusted to account for the effects of inflation, yielding an effective hourly rate of \$320. See Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.

<sup>399</sup>  $\$3,003,520 = 9,386$  burden hours  $\times$  \$320 per hour.  $\$2,711,680 = 8,476$  burden hours  $\times$  \$320 per hour.

first year, with the external cost in subsequent years likely to be negligible.<sup>400</sup> With respect to those funds that currently have websites, we estimate that the website posting requirements of the rule will not result in incremental external costs.<sup>401</sup> If funds that do not currently have websites incur ongoing external website development costs, aggregate costs of website accessibility will be higher than we estimate.

**b. Notice Preparation**

We estimate that funds will incur, in the aggregate, approximately \$14.3 million in the first year of relying on rule 30e-3 and approximately \$10.2 million in each subsequent year in costs to prepare and review Notices and to file Notices with additional content with reports on Form N-CSR.<sup>402</sup>

We estimate that funds that elect to rely on rule 30e-3 will incur, in the aggregate, an internal hour burden of approximately 25,576 hours in the first year and 17,051 hours each following year in connection with the Notice conditions of the rule.<sup>403</sup> Based on an estimated wage rate of about \$353 per hour for compliance attorneys,<sup>404</sup> we estimate the

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<sup>400</sup> \$228,000 = 114 funds × \$2,000 per fund. *See infra* note 492 (estimating, as we did in the Proposing Release, that each fund that does not currently have a website will incur a one-time external cost of \$2,000 to develop a website) and *infra* note 495 (estimating 114 funds do not currently have websites). In the Proposing Release we also estimated that no cost would be incurred in subsequent years by funds that do not currently have a website. *See* Proposing Release, *supra* note 14, at 33678, nn.811–812 and accompanying text. We did not receive comments on these estimates and are therefore retaining these assumptions.

<sup>401</sup> *See infra* note 494 and accompanying text.

<sup>402</sup> *See infra* notes 405–407. In the first year: \$14,341,169 (\$9,028,328+ \$3,421,467+ \$1,891,374). In each following year: \$10,195,144 (\$6,019,003+ \$2,284,767+ \$1,891,374).

<sup>403</sup> *See infra* notes 504 (estimating 2.25 hours in the first year) and 505 (estimating 1.5 hours for each following year). 2.25 hours in the first year × 11,367 funds = 25,576 hours. 1.5 hours each following year × 11,367 funds = 17,051 hours.

<sup>404</sup> In the Proposing Release, we estimated that the internal hour burden required to comply with the requirements concerning preparation of the Initial Statement and Notice would be incurred at the rate of \$334 per hour. This estimate was based on the rate for compliance

total paperwork related expenses for funds associated with the internal hour burden imposed by the Notice conditions of rule 30e-3 will be approximately \$9.0 million in the first year of relying on rule 30e-3 and \$6.0 million each following year.<sup>405</sup> These estimates reflect the changes we are making to the Notice requirements relative to the proposal, including eliminating the requirement of including a direct URL to the shareholder report, eliminating the reply card requirement, permitting Notices to be incorporated into or combined with other Notices, expanding the ability to combine Notices with other mailings, as well as removing the filing requirement, except for Notices that contain content from the shareholder report, and allowing funds to include optional content from the shareholder report in the Notice.

The incremental annual costs of filing Notices with additional content with reports on Form N-CSR are estimated to be approximately \$1.9 million, using burden estimates for purposes of the PRA.<sup>406</sup>

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attorneys in SIFMA's Management and Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. *See* Proposing Release, *supra* note 14, at n.717.

We did not receive any comments on our proposed estimate of the proportion of the time required to prepare Initial Statements and Notices that would be carried out by outside counsel, and we are maintaining that estimate today. We are, however, updating our estimate of the hourly rate for the work carried out by compliance attorneys based on updated salary estimates to \$353 per hour.

<sup>405</sup> 25,576 hours × \$353 per hour = \$9,028,328. 17,051 hours × \$353 per hour = \$6,019,003.

<sup>406</sup> The aggregate internal burden is estimated as 5,358 hours. *See infra* note 579. We monetize it at the rate of \$353 for compliance attorneys. *See supra* note 404. The aggregate cost is estimated to be \$1,891,374 (5,358 hours × \$353).

Finally, we estimate that external costs related to the Notice requirements of rule 30e-3 will be, in the aggregate, approximately \$3.4 million in the first year and \$2.3 million each following year.<sup>407</sup>

**c. Printing and Mailing Costs**

We estimate that funds that rely on rule 30e-3 will incur, in the aggregate, approximately \$76.3 million per year in printing and mailing costs for Notices and costs of delivery of shareholder reports in paper form upon shareholder request.<sup>408</sup> These estimates are inclusive of processing fee costs, and have been adjusted in response to comments received on these estimates and other considerations.<sup>409</sup>

In a change from the proposal, funds will not be required to prepare and mail the Initial Statement. Therefore, the cost estimates are revised from the proposal to reflect the elimination of the Initial Statement printing, mailing and processing costs. The cost estimates are further revised to reflect changes we are making to the Notice requirements relative to the proposal, including eliminating the reply card requirement, permitting Notices to be incorporated into or combined with other Notices, as well as expanding the ability to combine Notices with other mailings. The estimates further incorporate certain revisions to the assumptions, relative to the proposal, based on the input we have received from commenters. In particular, we have revised the baseline assumption about the magnitude of printing and mailing costs as a share of the total external cost of compliance

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<sup>407</sup> See *infra* note 512 (estimating outside counsel costs associated with the Notice of about \$301 in the first year and about \$201 in subsequent years). \$301 in the first year for the Notice  $\times$  11,367 funds = \$3,421,467 in the first year. \$201 each following year for the Notice  $\times$  11,367 funds = \$2,284,767 each following year.

<sup>408</sup> See *infra* notes 414 and 530.  $\$70,611,804 + \$5,683,500 = \$76,295,304$ .

<sup>409</sup> See *infra* Section IV.C.

with rules 30e-1 and 30e-2, from one-third in the proposal, to two-thirds, as explained below.<sup>410</sup>

Further, in light of the above comments on the estimates in the Proposing Release and the modifications we are making today (including eliminating the reply card requirement for Notices, permitting Notices to accompany other Notices and other types of documents, and permitting funds to include optional content from the shareholder report in the Notice),<sup>411</sup> we have determined to increase our estimate of the percentage of annual printing and mailing costs (including processing fees) associated with shareholder reports that will be associated with the printing and mailing of each Notice from 10% in the proposal to 15%, as explained below.<sup>412</sup>

We now estimate that each fund that relies upon rule 30e-3 will incur an external cost of approximately \$6,212 per year for printing and mailing Notices.<sup>413</sup> In the aggregate, funds are estimated to incur approximately \$70.6 million per year to print and mail Notices.<sup>414</sup>

In addition, under rule 30e-3, investors will have the option to request shareholder reports and other materials to be delivered in paper form and also to request paper copies for individual documents even if they do not request paper delivery for all documents. Funds that rely on rule 30e-3 will therefore incur expenses related to printing and mailing shareholder reports and other materials for those shareholders. We estimate that funds

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<sup>410</sup> See *infra* note 544 and accompanying text.

<sup>411</sup> See *supra* notes 32–36 and accompanying text; *infra* note 521.

<sup>412</sup> See *infra* note 517 and accompanying and following text and *infra* Section IV.B.

<sup>413</sup> See *infra* notes 525–526 and accompanying text.

<sup>414</sup> *Id.*  $\$3,106 \times 2$  Notices per year  $\times$  11,367 funds = \$70,611,804.

that elect to rely on rule 30e-3 will incur, in the aggregate, annual external costs of approximately \$5.7 million to comply with the rule's requirements to print and mail shareholder reports upon request.<sup>415</sup>

In connection with tracking shareholder requests for paper under rule 30e-3, funds and intermediaries may incur costs to implement and maintain systems to record shareholder preferences for paper delivery and requests for paper copies of shareholder reports under rule 30e-3.<sup>416</sup> As discussed above, we believe that existing systems for electronic delivery could generally be leveraged in order to establish new processes and procedures for delivery of shareholder reports under rule 30e-3.<sup>417</sup> The costs associated with implementing these systems may depend on funds' and intermediaries' existing systems for tracking investor preferences for electronic delivery. Given this variation, we do not have data on the extent of potential system updates that funds and intermediaries would need to implement.

The modifications made from the proposal, including the elimination of the Initial Statement, the tracking of delivery preferences at the account rather than position level, and the permanent nature of the opt-in to paper delivery, are expected to reduce operational complexities and make it easier for existing systems to be leveraged for purposes of tracking investor preferences for paper delivery under rule 30e-3. Further,

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<sup>415</sup> See *infra* note 530.

<sup>416</sup> See *supra* note 239 and accompanying text.

<sup>417</sup> See *supra* Section II.C.2. We note that the rule's approach to provide shareholders the option to request paper copies is generally similar to the operational approach currently used by many funds and intermediaries for the delivery of other fund materials. For example, paper copies of disclosure documents (including shareholder reports) may currently be requested when some shareholders have elected electronic delivery for some, but not all communications.

the extended transition period, added in a change from the proposal, is expected to provide funds and intermediaries additional time to implement the necessary system changes.

We recognize that certain changes from the proposal, such as eliminating the requirement to mail the Initial Statement, eliminating the reply card, and adding required prominent disclosures on summary and statutory prospectuses and shareholder reports, may affect the number of investors who elect paper delivery due to changes to investor awareness regarding the option to request paper delivery under rule 30e-3, resulting in different printing and mailing costs under rule 30e-3 than estimated above. However, we are not able to quantify these effects due to uncertainty about the number of investors who may elect paper delivery as a result of these changes.

**d. Disclosure Amendments to Rule 498 and Registration Forms**

In a modification from the proposal, we are amending rule 498 and certain fund registration forms setting forth a temporary condition requiring funds to include during the extended transition period certain disclosures on summary prospectuses, statutory prospectuses, and shareholder reports for up to two years prior to the date a fund would begin sending Notices in reliance on the rule. During the extended transition period, funds intending to rely on rule 30e-3 as early as permitted will include prominent disclosures on the cover page or beginning of their summary prospectuses, and cover pages of their statutory prospectuses and shareholder reports for a period of up to two

years.<sup>418</sup> We estimate that these disclosures will result in aggregate incremental costs prior to the effective date of rule 30e-3 of approximately \$8.2 million in the first year<sup>419</sup> and approximately \$4.8 million in the second year.<sup>420</sup>

As described above, the condition will take effect on January, 1, 2019 and expire on January 1, 2022.<sup>421</sup> Depending on when existing funds make the election to rely on rule 30e-3 and begin incorporating prominent disclosures in their summary and statutory prospectuses and shareholder reports, the number of fund documents on which individual funds will be required to include prominent disclosures, the time when funds are required to begin tracking investor opt-outs, and the associated cost, as well as the time that will elapse before the fund is allowed to begin delivering Notices in reliance on rule 30e-3, will vary, as detailed above.<sup>422</sup> Differences in the timing of when funds may begin to realize cost savings under rule 30e-3 may potentially have competitive effects during the extended transition period.

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<sup>418</sup> See new paragraph (b)(1)(vii) of rule 498; new paragraph (a)(5) to Item 1 of Form N-1A; new paragraph (d)(8) to Item 27 of Form N-1A; new paragraph 1.1 to Item 1 of Form N-2; new instruction 6.g to Item 24 of Form N-2; new paragraph (a)(xi) to Item 1 of Form N-3; new instruction 6(vii) to Item 28(a) of Form N-3; new paragraph (a)(x) to Item 1 of Form N-4; new paragraph (a)(6) to Item 1 of Form N-6.

<sup>419</sup> \$8,151,936 = \$7,144,872 associated with amendments to rule 498 and Form N-1A + \$454,400 associated with amendments to Form N-2 + \$9,372 associated with amendments to Form N-3 + \$422,592 associated with amendments to Form N-4 + \$120,700 associated with amendments to Form N-6. See *infra* notes 430, 437, 442, 445, and 448.

<sup>420</sup> \$4,837,088 = \$4,286,980 associated with amendments to rule 498 and Form N-1A + \$272,640 associated with amendments to Form N-2 + \$5,680 associated with amendments to Form N-3 + \$211,296 associated with amendments to Form N-4 + \$60,492 associated with amendments to Form N-6. See *infra* notes 430, 437, 442, 445, and 448.

<sup>421</sup> See *supra* Sections II.B.2.f and II.B.3.

<sup>422</sup> *Id.*

However, for existing funds, the application of these provisions during the extended transition period and the associated costs and benefits will be determined by the timing of the fund's own decision to rely on rule 30e-3 and to begin informing investors of the fund's intent to rely on rule 30e-3 by including prominent disclosures on fund documents during the extended transition period (*e.g.*, whether to begin informing investors of the fund's intent to rely on rule 30e-3 immediately after the rule becomes effective on January 1, 2019, or for new funds from the date the fund first publicly offers its shares; or whether to postpone relying on rule 30e-3 and informing investors of the fund's intent to rely on rule 30e-3 through prominent disclosures on fund documents). Similarly, an existing fund's decision to postpone relying on rule 30e-3 during the extended transition period will reduce the number of prominent disclosures that the fund will need to include on fund documents during the extended transition period before being able to rely on rule 30e-3, thus potentially reducing the cost of related disclosure amendments to the fund. For existing funds, the incremental reduction in the cost of compliance with the requirement to include prominent disclosures on an additional fund document mailing is expected to be small relative to the opportunity cost of delaying the realization of cost savings from reliance on rule 30e-3. Overall, we anticipate that existing funds that are considering whether to rely on rule 30e-3 will weigh the costs and benefits of doing so early versus late during the extended transition period and will select the option that provides the most benefit.

The final rule provides funds the flexibility to make the election to rely on rule 30e-3 at the time that is most appropriate for the fund's specific circumstances while including prominent disclosure requirements during the extended transition period to

enhance investor awareness of the upcoming changes in the shareholder report delivery framework. Such flexibility is expected to enable funds to select the most efficient manner of shareholder report delivery and for funds that elect to rely on the rule, the most efficient approach to transition to rule 30e-3.

The final rule allows new funds that enter the industry in January 2021 or later to begin relying on rule 30e-3 immediately from the date the fund first publicly offers its shares without having to provide prominent disclosures, which is different from the application of the rule to funds in existence during 2019–2020 that will have had to provide up to two years of prominent disclosures, and incur the associated cost, as a condition of relying on rule 30e-3 beginning on January 1, 2021. In this respect, existing funds wishing to rely on the rule beginning on January 1, 2021 will incur a cost that funds newly formed on or after that date will not. Moreover, those existing funds that delay their decision to rely on the rule (that is, those that decide after January 1, 2019) may incur the opportunity cost due to not being able to begin relying on the rule starting January 1, 2021. Although in that respect, existing and new funds are treated differently, we note that all funds that decide to rely on the rule as early as possible—either before January 1, 2019 or at their inception—will be treated similarly.

*Rule 498 and Form N-1A Estimates.*

We estimate that there are 11,181 funds that file Form N-1A,<sup>423</sup> including 10,063 funds that will rely on rule 30e-3, of which 9,057 funds also rely on rule 498.<sup>424</sup> We estimate that the remaining 1,006 funds do not rely on rule 498.<sup>425</sup>

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<sup>423</sup> See *infra* note 556.

<sup>424</sup> See *infra* note 557 and accompanying text.

We estimate that funds will incur, in the aggregate, 9,057 hours in the first year and 4,529 hours in the second year to satisfy the disclosure requirements associated with the amendments to rule 498.<sup>426</sup> We further estimate that the funds that rely on rule 30e-3 but not rule 498 will incur, in the aggregate, 1,006 hours in the first year and 503 hours in the second year to comply with the amendments to Form N-1A relating to prospectuses.<sup>427</sup> In addition, we estimate that funds that will rely on rule 30e-3 and that file Form N-1A will incur, in the aggregate, 15,095 hours in the first year and 10,063 in the second year to comply with the amendments to Form N-1A relating to annual and semi-annual reports.<sup>428</sup>

Based on an estimated wage rate of about \$284 per hour,<sup>429</sup> we estimate the total paperwork related expenses for funds relying upon rule 30e-3 and associated with the amendments to rule 498 and Form N-1A will be approximately \$7.1 million in the first year and approximately \$4.3 million in the second year.<sup>430</sup>

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<sup>425</sup> See *infra* note 559 and accompanying text.

<sup>426</sup> See *infra* note 558.

<sup>427</sup> See *infra* note 559.

<sup>428</sup> See *infra* note 560.

<sup>429</sup> The estimated wage figure is based on published rates for intermediate accountants and attorneys, modified to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, and adjusted to account for the effects of inflation. See *supra* note 398. Based on adjusted industry data, we estimate a rate of \$166 per hour for intermediate accountants and \$401 per hour for attorneys. We further estimate that work would be divided equally between intermediate accountants and attorneys, yielding a rate of \$284 per hour  $((\$166 + \$401) \div 2)$ .

<sup>430</sup>  $(9,057 + 1,006 + 15,095) \text{ hours} \times \$284 \text{ per hour} = \$7,144,872$ .  $(4,529 + 503 + 10,063) \text{ hours} \times \$284 \text{ per hour} = \$4,286,980$ .

Form N-2 Estimates.

We estimate that there are 711 closed-end funds that file Form N-2,<sup>431</sup> including 640 funds that will rely on rule 30e-3.<sup>432</sup> We estimate that these funds will incur, in the aggregate, 640 hours in the first year and 320 hours in the second year to satisfy the disclosure requirements associated with the amendments to Form N-2 relating to statutory prospectuses.<sup>433</sup> In addition, we estimate these funds will incur, in the aggregate, 960 hours in the first year and 640 hours in the second year to comply with the amendments to Form N-2 relating to annual and semi-annual reports.<sup>434</sup> Based on an estimated wage rate of about \$284 per hour,<sup>435</sup> we estimate the total paperwork related expenses for funds relying upon rule 30e-3 and associated with the amendments to Form N-2 will be approximately \$0.5 million in the first year and approximately \$0.3 million in the second year.<sup>436</sup>

Form N-3 Estimates.

We estimate that there are 14 funds that file Form N-3,<sup>437</sup> including 13 funds that will rely on rule 30e-3.<sup>438</sup> We estimate that these funds will incur, in the aggregate, 13 hours in the first year and 7 hours in the second year to satisfy the disclosure

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<sup>431</sup> See *infra* note 562 and accompanying text.

<sup>432</sup> See *infra* note 563.

<sup>433</sup> See *infra* note 564.

<sup>434</sup> See *infra* note 565.

<sup>435</sup> See *supra* note 429.

<sup>436</sup>  $(640 + 960 \text{ hours}) \times \$284 \text{ per hour} = \$454,400$ .  $(320 + 640 \text{ hours}) \times \$284 \text{ per hour} = \$272,640$ .

<sup>437</sup> See *infra* note 567 and accompanying text.

<sup>438</sup> See *infra* note 568.

requirements associated with the amendments to Form N-3 relating to statutory prospectuses.<sup>439</sup> In addition, we estimate that these funds will incur, in the aggregate, 20 hours in the first year and 13 hours in the second year to comply with the amendments to Form N-3 relating to annual and semi-annual reports.<sup>440</sup> Based on an estimated wage rate of about \$284 per hour,<sup>441</sup> we estimate the total paperwork related expenses for these funds will be approximately \$9,372 in the first year and \$5,680 in the second year.<sup>442</sup>

*Form N-4 Estimates.*

As we discuss below, we estimate funds that will rely on rule 30e-3 will make 1,488 filings of Form N-4, with the total annual hour burden associated with the amendments to Form N-4 of 1,488 hours in the first year and 744 hours in the second year.<sup>443</sup> Based on an estimated wage rate of about \$284 per hour,<sup>444</sup> we estimate the total paperwork related expenses for these funds will be approximately \$422,592 in the first year and \$211,296 in the second year.<sup>445</sup>

*Form N-6 Estimates.*

As we discuss below, we estimate funds that will rely on rule 30e-3 will make 425 filings of Form N-6, with the total annual hour burden associated with the amendments to Form N-6 of 425 hours in the first year and 213 hours in the second year.<sup>446</sup> Based on an

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<sup>439</sup> See *infra* note 569.

<sup>440</sup> See *infra* note 570.

<sup>441</sup> See *supra* note 429.

<sup>442</sup>  $(13 + 20 \text{ hours}) \times \$284 \text{ per hour} = \$9,372$ .  $(7 + 13 \text{ hours}) \times \$284 \text{ per hour} = \$5,680$ .

<sup>443</sup> See *infra* notes 572–573 and accompanying and following text.

<sup>444</sup> See *supra* note 429.

<sup>445</sup>  $1,488 \times \$284 = \$422,592$ .  $744 \times \$284 = \$211,296$ .

<sup>446</sup> See *infra* notes 574–575 and accompanying and following text.

estimated wage rate of about \$284 per hour,<sup>447</sup> we estimate the total paperwork related expenses for these funds will be approximately \$120,700 in the first year and \$60,492 in the second year.<sup>448</sup>

## 2. Other Costs

Although we believe that the provisions of the final rule enable investors to receive shareholders reports in the format they prefer, that website availability of shareholder reports and portfolio information is consistent with many investors' preferences,<sup>449</sup> and that the final rule may promote improved access to and consumption of portfolio information, as discussed above,<sup>450</sup> we acknowledge that there may be some investors who would prefer to receive paper copies but may not notify their fund of that preference.<sup>451</sup> To this end, several commenters pointed out that internet access and use among Americans was not universal.<sup>452</sup> Those investors without home internet access, depending on their ability and preference to access shareholder reports and portfolio investment information electronically, might experience a reduction in their ability to access shareholder reports and portfolio investment information if they do not elect to receive paper reports. Further, some commenters have asserted that some investors with

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<sup>447</sup> See *supra* note 429.

<sup>448</sup>  $425 \times \$284 = \$120,700$ .  $213 \times \$284 = \$60,492$ .

<sup>449</sup> See, e.g., *supra* notes 43, 96, and 97, and accompanying text.

<sup>450</sup> See *supra* Section III.C.2.

<sup>451</sup> See *supra* note 98; *supra* Section II.A.2.

<sup>452</sup> See *supra* note 49. But see *supra* notes 41–42 and accompanying text (discussing increasing internet usage, including among previously underserved demographic groups).

internet access may be less likely to review their shareholder reports made available online than shareholder reports delivered in paper form.<sup>453</sup>

To the extent that a reduction in the review of shareholder reports by such investors decreases how informed they are about funds, it could potentially decrease their ability to efficiently allocate capital across funds and other investments. A decrease in the ability of investors to access and review information about different funds could also decrease the competition among funds for investor capital. However, these potential

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<sup>453</sup> Commission staff lacks data to assess the extent to which investors review information provided in either paper or electronic format. One commenter provided survey evidence, suggesting that, less than half of the respondents read all of the disclosure but a significant portion of respondents read or skim some of the disclosure. *See* Broadridge Meeting Memo I, at 9 (citing the 2016 True North Market Insights Study, according to which (1) 21% of respondents reported reading paper reports thoroughly and 53% reported skimming the reports, and (2) 36% of respondents reported always looking at the annual and semi-annual reports received in the mail, 31% of respondents reported doing so most of the time, and 26% of respondents reported doing so some of the time; the 2015 FINRA National Financial Capability Study, according to which 28% of respondents reported reading disclosure documents regarding investments and 58% of respondents reported skimming the disclosure documents; the 2015 Forrester Research and Broadridge Custom Survey, according to which 24% of respondents reported looking at shareholder reports always, 26% of respondents most of the time, and 37% of respondents sometimes; and the 2006 ICI Study: Understanding Investor Preferences for Mutual Fund Information, according to which 10% of respondents reported reading all shareholder reports, 17% of respondents reported reading most, 24% of respondents reported reading some, and 26% of respondents reported reading very little of the shareholder reports they receive).

However, another commenter suggested that surveys about readership may be unreliable because respondents may misstate their readership, because surveys did not ask respondents specifically about whether they read the reports, and because surveys often have methodological problems that lead to a likely overstatement of the baseline readership. The commenter also expressed skepticism that “large number[s] of individual investors are avid readers of their paper shareholder reports” due to the length and technical nature of the reports, especially when published on a consolidated basis, and argued that it is thus not possible to conclude that fewer investors would read reports online. *See* ICI Comment Letter III. In another letter, this commenter stated that, based on an investor survey, “fewer than half of mutual fund shareholders still review some printed materials for information about their fund investments, and over two-thirds of these individuals likewise access online materials to gather information on their fund investments.” *See* Comment Letter of Investment Company Institute (Jul. 8, 2016) (“ICI Comment Letter IV”).

effects will be attenuated to the extent that investors rely on other sources of information and disclosures, in addition to shareholder reports, to obtain information about funds.

In a change from the proposal, after considering the input from commenters, we are not requiring pre-paid reply cards to be sent together with Notices,<sup>454</sup> nor are we requiring funds to mail an Initial Statement.<sup>455</sup> These changes may reduce the likelihood, compared to the proposal, that investors who prefer to access reports in paper form will elect to receive reports in that form, which in turn would potentially reduce the likelihood that investors will review the information in reports, and similarly may result in less well-informed investment decisions and potential adverse effects on the efficiency of capital allocation across funds.

However, we have sought to mitigate such potential adverse effects in the final rule.<sup>456</sup> For example, the final rule contains a Notice requirement and permits the Notice to include multiple means through which an investor can elect paper reports.<sup>457</sup> To help ensure that current investors that may be accustomed to receiving shareholder reports in paper through the mail have advance notice of a fund's intent to rely on rule 30e-3, the final rule also includes an extended transition period with a temporary condition that requires funds to include prominent disclosures during the extended transition period in various fund documents prior to sending Notices pursuant to the rule.<sup>458</sup> In addition, to further simplify the process for investors with a preference for paper delivery to make

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<sup>454</sup> See *supra* note 174.

<sup>455</sup> See *supra* Section II.B.2.b.

<sup>456</sup> See *supra* Section II.B.2.

<sup>457</sup> See *supra* Section II.B.2.b.

<sup>458</sup> See *supra* Sections II.B.2.f and II.B.3.

such an election, under the final rule, an investor's election for paper reports is required to be applied at the investor account level, rather than the fund position level.<sup>459</sup>

In a change from the proposal, the final rule permits a Notice to include additional information about the fund, so long as it is limited to information contained in the shareholder report for which Notice is being given.<sup>460</sup> To the extent that investors only review Notices and to the extent that investors do not find the additional content from the report included in the Notice to be a sufficient description of fund operations, it may result in a less complete investor review of information about the fund. However, the requirement that the Notice describe means by which investors may access the complete shareholder report and the requirement that additional content included in the Notice be limited to information from the shareholder report are expected to partly mitigate this concern.

In addition, although we expect investors to benefit from a reduction in printing and mailing costs borne by their funds, we recognize that some investors may incur printing costs due to manually printing specific documents of their choosing.<sup>461</sup> Investors

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<sup>459</sup> See *supra* Section II.B.2.d.

<sup>460</sup> See *supra* Section II.B.2.b.ii.

<sup>461</sup> See Shareholder Choice Regarding Proxy Materials Release, *supra* note 18, at 42231, 42234. The Shareholder Choice Regarding Proxy Materials Release estimated that approximately 10% of all shareholders print out proxy materials at home at a unit cost that was approximately 25% higher than the average cost of printing and mailing each copy under the paper delivery regime ( $\$7.05 \div \$5.64 = 1.25$ ). Printing costs for shareholder reports and proxy materials may differ and printing costs in absolute terms have decreased over time. According to one commenter, the cost to the fund of printing and mailing a shareholder report under the existing requirements is \$0.70 per report. See ICI Comment Letter I. However, it remains likely that individual shareholders who manually print reports will incur a higher cost per report relative to the cost incurred by a fund due to the economies of scale. It is not clear how many shareholders will manually print shareholder reports, and thus, what the aggregate incremental cost impact on shareholders will be.

that print out their own materials would likely incur greater costs than they would otherwise indirectly bear if the printing and mailing costs of those materials were borne collectively by all investors of the fund. We note, however, that investors have the option to request paper copies directly instead of manually printing materials, and we expect investors who regularly print out their own copies of shareholder reports and for whom such printing is burdensome or costly to elect paper delivery.

It is possible that funds that choose to rely on rule 30e-3 could be at a competitive disadvantage if investors choose funds based on their preference for the default of paper delivery. Funds for which such competitive effects outweigh the cost savings from reliance on rule 30e-3 can choose not to rely on rule 30e-3.

Rule 30e-3 and related rule and form amendments could also potentially have costs extending beyond the asset management industry. Some commenters expressed concern about the long-term effects of rule 30e-3 on other industries, including the paper industry.<sup>462</sup> The commenters, however, did not provide specific data on or estimates of the rule's potential impact on those industries. Even in the absence of rule 30e-3 and related amendments to rule 498 and registration forms, continued future growth of electronic delivery in reliance on existing Commission guidance might result in a continued decrease in the number of shareholder reports being delivered in paper form, so the potential future effects on the paper industry may be influenced by factors outside of rule 30e-3 and related rule and form amendments. Furthermore, notwithstanding these potential impacts, we continue to believe that rule 30e-3 will modernize and enhance the

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<sup>462</sup> See, e.g., Baesman Comment Letter; Sandstrom Comment Letter; Gherman Comment Letter; Snader Comment Letter; Jaffe Comment Letter.

manner in which shareholder reports are made available to investors, resulting in savings in printing and mailing costs that are borne by funds, and ultimately, by fund shareholders, and overall greater accessibility of shareholder reports and other related information. Moreover, under rule 30e-3 investors will have the ability to request delivery of shareholder reports and other materials in paper form.

#### **E. Alternatives**

Commission staff has also examined different ways in which the information that funds provide to investors could be made more accessible while still promoting the ability of investors to receive these important documents via their preferred method. Some of these alternatives are discussed throughout the release to explain why the Commission ultimately chose to adopt the rule in its current state. We discuss below several additional alternatives that the Commission considered.

As an alternative, we considered whether we should eliminate the Notice requirement, as suggested by one commenter.<sup>463</sup> Eliminating the Notice would provide greater cost savings to funds and their investors than the final rule we are adopting today. We estimate that this alternative would result in additional aggregate savings of Notice preparation, printing, and mailing costs of approximately \$86.8 million in the first year and approximately \$83.8 million in each subsequent year.<sup>464</sup> However, we believe that doing so would reduce investor awareness of the online shareholder reports, which would run counter to our objective of promoting the accessibility of these important fund documents. While funds will necessarily incur costs to distribute Notices, as discussed

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<sup>463</sup> See *supra* Section II.B.2.b.

<sup>464</sup> See *supra* notes 402 and 408: \$86,767,898 (\$75,993,264 + \$10,774,634) in the first year and \$83,797,114 (\$75,993,264 + \$7,803,850) in each following year.

above,<sup>465</sup> we continue to believe that it is important for investors to receive the Notice, as it will alert them to the availability of a shareholder report online and will provide them with information on how to obtain a paper copy of the report.

As another alternative, we could have required or permitted the Notice, which meets the content requirements in the final rule, or alternatively, additional content requirements as described below, to be sent via email, as suggested by some commenters.<sup>466</sup> This alternative would result in savings of printing and mailing costs for funds of up to approximately \$76.0 million per year if all Notices are sent by email instead of in paper form.<sup>467</sup> The email manner of delivery of the Notice under this alternative would not be expected to affect the costs of preparing the Notice content. However, for investors that have not opted into electronic delivery, information on email addresses that a fund can use to deliver Notices may be missing or out of date, and we are unable to estimate the costs to an average fund of updating and compiling email lists under the alternative of email distribution of Notices to all shareholders. We lack data on the percent of fund investors that have not opted into electronic delivery for whom funds have up-to-date email contact information because funds are not required to disclose such information and it is not available to us from other sources.

Nevertheless, as discussed above, we continue to believe that it is important for investors to receive the Notice, as it will contemporaneously alert them to the availability of a shareholder report online. A Notice will also provide investors with information on

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<sup>465</sup> See *supra* Section III.D.1.

<sup>466</sup> See *supra* notes 141–144.

<sup>467</sup> See *supra* 408.

how to obtain a paper copy of the report , which makes it easier for investors with a preference for paper to request shareholder reports in paper. The benefits from requiring the Notice to be in paper form include, for example, that there may be instances where an investor provided his or her email for certain limited purposes without necessarily intending to receive shareholder reports or notices of reports through email.<sup>468</sup>

In a modification from the proposal, we are permitting funds to incorporate content from their shareholder reports into Notices relating to shareholder reports required to be transmitted under rule 30e-1, as discussed in greater detail in Section II.B.2.b.ii above. As alternatives, we considered, as a condition of reliance on rule 30e-3, either (1) limiting the types of content from the shareholder report that is permitted to be incorporated into the Notice, or (2) specifying additional types of content from the shareholder report that are required to be incorporated into the Notice.<sup>469</sup> Relative to the final rule, both alternatives could result in greater standardization of additional Notice content, potentially facilitating investor review and comparison of information in such Notices across funds and thus potentially enabling better informed investment decisions, to the extent that investors rely on information from shareholder reports relative to other sources of information and disclosures. The second alternative also could make information from shareholder reports more accessible to those investors that may otherwise not review shareholder reports.

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<sup>468</sup> See *supra* note 145 and accompanying paragraph.

<sup>469</sup> For an additional discussion of the reasons for the approach chosen for the Notice, see *supra* Section II.B.2.b.ii.

However, both alternatives would limit the flexibility of funds to tailor Notice content to include the types of information from shareholder reports that may be more relevant and valuable for investors in the specific fund, potentially affecting how useful the Notice content is to those investors.

Further, if the additional information required to be included in Notices under the second alternative is more extensive than the information that funds would otherwise elect to include in Notices under the final rule, the second alternative could increase Notice preparation, printing, and mailing costs, which would be passed on to fund investors, relative to the final rule.

We also recognize that the number of funds that rely on rule 30e-3 may decrease under this alternative in the event that funds find rule 30e-3 to be less advantageous as a result of increased Notice preparation, printing, and mailing costs. Overall, we believe that the Notice provisions of the final rule permit sufficient flexibility for funds to present additional information from the shareholder report in Notices sent to investors without imposing additional burdens and costs on those funds that would not expect their investors to find such information to be of added value.

We are adopting a temporary condition of reliance on rule 30e-3 that requires funds intending to rely on rule 30e-3 to provide prominent disclosures on certain fund documents for up to two years during the extended transition period. As an alternative, we could require all funds, including funds that elect to rely on rule 30e-3 after the temporary condition expires, to provide two years of prominent disclosures on certain fund documents prior to being able to rely on rule 30e-3. This alternative may benefit some investors in funds that elect to rely on rule 30e-3 in the future by increasing their

awareness of the fund’s intent to rely on rule 30e-3. However, this benefit is likely to decrease as time elapses since the rule’s effective date and an increasing number of investors becomes aware of the industry-wide changes in the shareholder report delivery framework under rule 30e-3, including as a result of receiving prominent disclosures on fund documents and Notices under rule 30e-3 sent by other funds in which investors hold positions. This alternative likely would reduce the benefits to funds, and in turn, to fund investors, relative to the final rule, by retaining on an indefinite basis a two-year delay in the ability of funds to realize printing and mailing cost savings from rule 30e-3. This alternative also would result in higher costs of prominent disclosures being incurred by funds, and in turn, fund investors, beyond the end of the extended transition period.

#### **IV. PAPERWORK REDUCTION ACT**

New rule 30e-3 contains a “collection of information” within the meaning of the Paperwork Reduction Act of 1995 (the “PRA”).<sup>470</sup> In addition, the new rule and other amendments will impact the collections of information under rules 30e-1 and 30e-2, rule 498 under the Securities Act, and Forms N-1A, N-2, N-3, N-4, N-6, and N-CSR.

The titles for the existing collections of information are: “Rule 30e-1 under the Investment Company Act of 1940, Reports to Stockholders of Management Companies” (OMB Control No. 3235–0025); “Rule 30e-2 (17 CFR 270.30e-2) pursuant to Section 30(e) of the Investment Company Act of 1940 (15 U.S.C. 80a-29(e)), Reports to Shareholders of Unit Investment Trusts” (OMB Control No. 3235–0494); “Rule 498 under the Securities Act of 1933, Summary Prospectuses for Open-End Management Investment Companies” (OMB Control No. 3235–0648); “Form N-1A under the

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<sup>470</sup> 44 U.S.C. 3501–3521.

Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Open-End Management Investment Companies” (OMB Control No. 3235–0307); “Form N-2 under the Investment Company Act of 1940 and Securities Act of 1933, Registration Statement of Closed-End Management Investment Companies” (OMB Control No. 3235–0026); “Form N-3 under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Separate Accounts Organized as Management Investment Companies” (OMB Control No. 3235–0316); “Form N-4 under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Separate Accounts Organized as Unit Investment Trust” (OMB Control No. 3235–0318); “Form N-6 under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Separate Accounts Organized as Unit Investment Trust” (OMB Control No. 3235–0503); and “Form N-CSR under the Securities Exchange Act of 1934 and under the Investment Company Act of 1940, Certified Shareholder Report of Registered Management Investment Companies” (OMB Control No. 3235–0570). The title for the new collection of information is: “Rule 30e-3 under the Investment Company Act of 1940, Internet Availability of Reports to Shareholders” (OMB Control No. 3235–0758).

We published notice soliciting comments on the collection of information requirements in the Proposing Release and submitted the proposed collection of information to the Office of Management and Budget (“OMB”) for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The Commission is adopting new rule 30e-3 under the Investment Company Act and certain related amendments. This reform is designed to modernize the manner in which periodic information is transmitted to investors, which we believe will improve investors' experience while reducing expenses associated with printing and mailing shareholder reports that are borne by investment companies and ultimately their investors. We discuss below the collection of information burdens associated with this reform.

New rule 30e-3 will provide certain funds with an optional method to satisfy requirements to transmit shareholder reports by making such reports and certain other materials publicly accessible on a website, provided that certain other conditions are satisfied.<sup>471</sup> Reliance on the rule is voluntary; however, compliance with the rule's conditions is mandatory for funds relying on the rule. Responses to the information collections will not be kept confidential.

**A. Availability of Shareholder Report and Other Materials**

Rule 30e-3 provides that a fund may satisfy its obligations to transmit a report to shareholders if certain conditions set forth in the rule are satisfied. Among these conditions are the requirements that the fund's shareholder report, any report with respect to the fund for the prior reporting period that was transmitted to shareholders of record pursuant to rule 30e-1 or rule 30e-2, and in the case of a report relating to a fund other than a money market fund or an SBIC, the fund's complete portfolio holdings as of the

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<sup>471</sup> See rule 30e-3.

close of its most recent first and third fiscal quarters, be publicly accessible, free of charge, at a specified website address.<sup>472</sup>

### Internal Hours Burden

In the Proposing Release, we estimated that 11,957 funds could rely on proposed new rule 30e-3.<sup>473</sup> Of these funds, we estimated that 90% of these entities (or 10,761 funds) would rely on proposed rule 30e-3.<sup>474</sup> Of these 10,761, we estimated that approximately 90% of these entities (or 9,634 funds) are currently posting shareholder reports on their websites (similar to the approximate proportion of funds expected to rely on rule 30e-3 that rely on the summary prospectus rules and thus already post shareholder reports on their websites). With respect to these entities, we estimated that annual compliance with the posting requirements of proposed rule 30e-3 would require a half hour burden per entity.<sup>475</sup>

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<sup>472</sup> Rule 30e-3(b)(1)(i)–(iii). While we are modifying Exchange Act rule 14a-16 to include the Notice with respect to fund documents that may accompany the Notice of Internet Availability of Proxy Materials, the incidental burden that this may impose is covered under the existing Paperwork Reduction Act for “Proxy Statements - Regulation 14(A) (Commission Rules 14a-1 through 14a-21 and Schedule 14A)” (OMB Control No. 3235-0059). Accordingly, we are not modifying those estimates at this time.

<sup>473</sup> Proposing Release, *supra* note 14, at 33678. This estimate included 9,259 mutual funds (including money market funds), 1,403 ETFs (1,411 ETFs less 8 UIT ETFs), 568 closed-end funds, and 727 UITs (including UIT ETFs) based on Investment Company Institute (“ICI”) statistics, Form N-SAR filings, and internal SEC data as of December 31, 2014. *See* ICI statistics *available at* <http://www.ici.org/research/stats>.

<sup>474</sup> Proposing Release, *supra* note 14, at 33678. Open-end funds relying on the summary prospectus rule, rule 498 under the Securities Act, are required to post their annual and semi-annual reports online. *See* rule 498(e)(1) [17 CFR 230.498(e)(1)].

<sup>475</sup> Because each of these funds was already required to have a website and to post its annual and semi-annual shareholder reports on this website, we estimated that proposed rule 30e-3 would only result in each of these funds incurring a half hour burden per year to post their first and third quarter portfolio holdings on their websites, including in the first year of compliance with the rule.

We have revised our estimate of the number of funds that may rely on rule 30e-3 upward from 11,957 to 12,630 to reflect updates to the industry data figures that were utilized in the Proposing Release.<sup>476</sup> We did not receive any comments on our proposed estimate of the proportion of funds that would rely on the new rule, or on our proposed estimate of the burden hours associated with the posting requirements of rule 30e-3 for funds that already post shareholder reports on their websites. We received one comment consistent with our proposed estimate that 90% of funds currently post shareholder reports on their websites.<sup>477</sup> Therefore, we are maintaining those estimates today, with adjustments to reflect the updated industry data figures since the Proposing Release. Thus, we estimate that 11,367 funds will rely on rule 30e-3,<sup>478</sup> and, of those, 10,230 are funds that already post shareholder reports on their websites.<sup>479</sup> Accordingly, with respect to these 10,230 funds, we estimate that annual compliance with the posting requirements of rule 30e-3 will require a half hour burden per fund.

In the Proposing Release, of the remaining funds estimated to rely on proposed rule 30e-3, we further estimated that approximately 90% of those funds (or 1,014 funds)

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<sup>476</sup> We estimate that there are 9,360 mutual funds, 1,821 exchange-traded funds (1,829 ETFs less 8 UIT ETFs), 711 closed-end funds, 14 funds that could file registration statements or amendments to registration statements on Form N-3, and 724 UITs. This estimate is based on data reported on Form N-SAR filed with the Commission as well as Investment Company Institute statistics as of December 31, 2017, *available at* <http://www.ici.org/research/stats>.  $9,360 + 1,821 + 711 + 14 + 724 = 12,630$ .

<sup>477</sup> Generally consistent with this estimate, one commenter stated that Summary Prospectuses were used in 2014 by over 82% of the fund CUSIPs for distributions comprising over 90% of the mailed volume. *See* Broadridge Comment Letter I.

<sup>478</sup> *See supra* note 476. We continue to estimate, similar to the proposal, that 90% of funds will rely on the final rule.  $12,630 \text{ funds that could rely} \times 0.90 \text{ proportion estimated to rely} = 11,367 \text{ funds estimated to rely}$ .

<sup>479</sup>  $11,367 \text{ funds relying on the rule} \times 0.90 = 10,230 \text{ funds that are estimated to rely on rule 30e-3 and already post shareholder reports on their websites}$ .

already had a website.<sup>480</sup> With respect to these funds, we estimated that the posting requirements of proposed rule 30e-3 would require a burden of one and a half hours per fund to post the required documents online, both in the first year and annually thereafter.<sup>481</sup> For the remaining 10% of funds (or 113 funds) that we estimated would rely on the proposed rule but that do not have a website,<sup>482</sup> we estimated initial compliance with the posting requirements would require approximately 24 hours per fund of internal staff time to develop a webpage and post the required documents on the webpage.<sup>483</sup> In addition, we estimated that each of these funds would spend approximately four hours of professional time to maintain and update a webpage with the required information on a quarterly basis.<sup>484</sup>

We did not receive any comments on our estimates in the Proposing Release of the proportion of those funds that would rely on the proposed rule and already have a website but that do not rely on the summary prospectus rule today, the burden of the website posting requirements for funds not relying on the summary prospectus rule that have a website, and the burden of the website posting requirements for funds that do not have a website, and we are maintaining those estimates today, with adjustments to reflect the updated industry figures since the Proposing Release. Thus, we estimate that, of the 1,137 funds estimated to rely on the new rule but that do not rely on the summary

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<sup>480</sup> Proposing Release, *supra* note 14, at 33678.

<sup>481</sup> *Id.*

<sup>482</sup> This estimate is based on the following calculation: (10,761 funds and - 9,634 open-end funds relying on the summary prospectus rule)  $\times$  10% = 113 funds.

<sup>483</sup> *Id.*

<sup>484</sup> *Id.*

prospectus rule,<sup>485</sup> 1,023 funds already have a website and each such fund will incur 1.5 burden hours per year as a result of the posting requirement,<sup>486</sup> and that 114 do not have a website and each such fund will incur 24 burden hours as a result of the posting requirement.<sup>487</sup>

Accordingly, we estimate that the posting requirements will result in an average annual hour burden of about 0.83 hours per fund in the first year of compliance<sup>488</sup> and about 0.75 hours per fund for each of the next two years.<sup>489</sup> Amortized over three years, the average annual hour burden will be about 0.78 hours per fund.<sup>490</sup> In sum, we estimate that the posting requirements of rule 30e-3 will impose an average total annual hour burden of about 8,866 hours on applicable funds.<sup>491</sup>

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<sup>485</sup> 11,367 funds relying on the rule - 10,230 funds using a summary prospectus that are estimated to rely on rule 30e-3 = 1,137 funds.

<sup>486</sup>  $(11,367 \text{ funds estimated to rely} - 10,230 \text{ funds relying on summary prospectus rule}) \times 0.90$  proportion estimated to have a website = 1,023 funds.

<sup>487</sup> 11,367 funds estimated to rely - 10,230 funds relying on summary prospectus rule - 1,023 funds with a website = 114 funds.

<sup>488</sup>  $((10,230 \text{ funds relying on the summary prospectus rule} \times 0.5 \text{ hours per fund per year}) + (1,023 \text{ funds with a website but not relying on the summary prospectus rule} \times 1.5 \text{ hours per fund or UIT per year}) + (114 \text{ funds without a website} \times 24 \text{ hours in the first year})) \div (11,367 \text{ funds estimated to rely}) = (5,115 \text{ hours for funds relying on the summary prospectus rule} + 1,535 \text{ hours for funds with a website but not relying on the summary prospectus rule} + 2,728 \text{ hours for funds without a website}) \div (11,367 \text{ funds estimated to rely}) = 9,378 \text{ total hours} \div 11,367 \text{ funds estimated to rely} = 0.83 \text{ hours per fund.}$

<sup>489</sup>  $((10,230 \text{ funds relying on the summary prospectus rule} \times 0.5 \text{ hours per fund per year}) + (1,023 \text{ funds with a website but not relying on the summary prospectus rule} \times 1.5 \text{ hours per fund or UIT per year}) + (114 \text{ funds without a website} \times 4 \text{ hours per fund per quarter} \times 4 \text{ quarters per year})) \div (11,367 \text{ funds estimated to rely}) = (5,115 \text{ hours for funds relying on the summary prospectus rule} + 1,534 \text{ hours for funds with a website but not relying on the summary prospectus rule} + 1,818 \text{ hours for funds without a website}) \div (11,367 \text{ funds estimated to rely}) = 8,468 \text{ total hours} \div 11,367 \text{ funds estimated to rely} = 0.75 \text{ hours per fund.}$

<sup>490</sup>  $(0.83 \text{ hours per fund in the first year} + (0.75 \text{ hours per fund each year thereafter} \times 2 \text{ years})) \div 3 \text{ years} = 0.78 \text{ hours per fund per year.}$

<sup>491</sup>  $0.78 \text{ hours per fund per year} \times 11,367 \text{ funds estimated to rely} = 8,866 \text{ hours.}$

### External Cost Burden

In the Proposing Release, we estimated that certain funds would bear an external cost burden in complying with the rule. The external cost burden is the cost of goods and services purchased in connection with complying with the rule, which, with respect to the posting requirements, will include costs associated with development of a website. With respect to those funds that would rely on proposed rule 30e-3 but that do not currently have a website, we estimated that the posting requirements of the proposed rule would result in an external cost burden of \$2,000 per fund in the first year to develop a website but no cost burden in subsequent years.<sup>492</sup> We further estimated that the amortized annual external cost burden associated with developing a website would be \$667.<sup>493</sup> With respect to those funds that currently have websites, we estimated that the posting requirements of the proposed rule would not result in any external costs.<sup>494</sup> We did not receive any comments on these proposed estimates, and we are maintaining them today, with adjustments to reflect the updated industry data figures since the Proposing Release. Accordingly, in the aggregate, we estimate that the annual total external cost burden with respect to these funds will be \$76,038.<sup>495</sup>

#### **B. Proposed Initial Statement**

As proposed, rule 30e-3 would have permitted an optional method to satisfy requirements to transmit shareholder reports by posting reports online with respect to a particular investor only if either the investor previously consented to this optional method

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<sup>492</sup> Proposing Release, *supra* note 14, at 33678.

<sup>493</sup> *Id.*

<sup>494</sup> *Id.*

<sup>495</sup> 114 funds without a website × \$667 per fund = \$76,038.

of website availability or the investor's consent could be inferred under certain conditions specified in the rule.<sup>496</sup> One of the proposed conditions for inferring consent would have provided that an Initial Statement be transmitted to an investor at least 60 days before reliance on the rule with respect to that investor informing the investor that future shareholder reports available on a website until the investor provides notification that he or she wished to receive paper copies of reports in the future. As discussed above, we have modified the proposed rule to eliminate the Initial Statement requirement, which will affect the aggregate estimated burdens associated with rule 30e-3. In the Proposing Release, we estimated that the Initial Statement would result in 0.69 average annual burden hours per fund and \$555 in average annual cost burden per fund,<sup>497</sup> which is eliminated by the modification in the final rule to not adopt the proposed Initial Statement requirement.

### **C. Notice**

Proposed rule 30e-3 would have required a Notice be sent to investors within 60 days of the close of the reporting period covered by the related report. Under the final rule, a Notice is required to be sent to investors within 70 days of the close of the reporting period to which the report relates.<sup>498</sup> The proposed rule would have also required that the form of the Notice be filed with the Commission not later than 10 days after the Notice is sent to investors.<sup>499</sup> However, the final rule will require that only if a

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<sup>496</sup> See proposed rule 30e-3(c).

<sup>497</sup> Proposing Release, *supra* note 14, at 33679–80.

<sup>498</sup> See proposed rule 30e-3(d); rule 30e-3(c).

<sup>499</sup> See proposed rule 30e-3(d)(7).

fund's Notice includes any content from the report to which it relates, a copy of the Notice must be filed as part of the fund's report on Form N-CSR.<sup>500</sup>

As discussed in Section IV.A above and as we estimated in the proposal, we estimate that 90% of all eligible funds (or 11,367 funds) will choose to rely on new rule 30e-3.<sup>501</sup>

#### Internal Hours Burden

For those funds relying on the rule, in the Proposing Release we estimated that each fund will require two hours to prepare and file the first Notice in the first year and an hour for each subsequent notice.<sup>502</sup> Of this time, we estimated that 75% of the preparation time required would be incurred by the fund internally and that 25% of the burden would be carried out by outside counsel retained by the fund.<sup>503</sup>

We did not receive any comments on our proposed estimates of the time required to prepare Notices, or on the estimated proportion of the preparation time required to prepare Notices that would be carried out internally or by outside counsel. As discussed above, the requirements regarding the Notice in the final rule, including removing the direct URL to the shareholder report and the reply card requirement, permitting Notices to be incorporated into or combined with other Notices, expanding the ability to combine Notices with other mailings, as well as removing the filing requirement (other than for Notices that include content from the report to which it relates as discussed in Section IV.F below), will collectively affect the estimated burden associated with the preparation

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<sup>500</sup> Item 1(b) of Form N-CSR; *see also infra* Section IV.G.

<sup>501</sup> *See supra* note 478 and accompanying text.

<sup>502</sup> Proposing Release, *supra* note 14, at 33679.

<sup>503</sup> *Id.*

of Notices. We are maintaining our estimate of the 75% preparation time that would be incurred by the fund internally, the first Notice in the first year required hours of two hours, and our estimate of subsequent Notice required hours of one hour to account for an increase in some funds that may include content from the shareholder report in the Notice.

Accordingly, we estimate that the Notice will result in an average annual hour burden of about 2.25 hours per fund in the first year<sup>504</sup> and about 1.5 hours per fund in each subsequent year.<sup>505</sup> Amortized over three years, the average annual hour burden associated with the Notice would be about 1.75 hours per fund.<sup>506</sup> We have also made adjustments to these estimates to reflect the updated industry data figures since the Proposing Release. In sum, we estimate that the Notice requirements of rule 30e-3 will impose an average total annual hour burden of about 19,892 hours on applicable funds.<sup>507</sup>

#### External Cost Burden

In addition, we estimate that funds will incur external costs if they rely on rule 30e-3. The external cost burden is the cost of goods and services purchased in connection with complying with the rule, which, with respect to the Notice, we have

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<sup>504</sup> (2 hours per first Notice + 1 hour per subsequent notice × 1 subsequent Notice in the first year) × 0.75 proportion internal hour burden = 2.25 hours per fund.

<sup>505</sup> (1 hour per subsequent Notice × 2 subsequent Notices in subsequent years) × 0.75 proportion internal hour burden = 1.5 hours per fund.

<sup>506</sup> (2.25 hours per fund in the first year + (1.5 hours each year thereafter × 2 years)) ÷ 3 years = 1.75 hours per fund.

<sup>507</sup> 1.75 hours per fund per year for the Notice × 11,367 funds estimated to rely = 19,892 hours per year.

estimated would include the costs associated with outside counsel and printing and mailing costs.

In the Proposing Release, we estimated that 25% of the time required to comply with the requirements concerning preparation of the Notice would be carried out by outside counsel retained by the fund at a rate of \$380 per hour.<sup>508</sup> We did not receive any comments on our proposed estimate of the proportion of the time required to prepare Notices that would be carried out by outside counsel, and we are maintaining that estimate today. We are, however, updating our estimate of the hourly rate for the work carried out by outside counsel based on updated industry data to \$401 per hour.<sup>509</sup> Accordingly, we estimate that outside counsel costs associated with the Notice will result in an average cost burden per fund of about \$301 in the first year,<sup>510</sup> about \$201 in subsequent years,<sup>511</sup> and amortized over three years, about \$234.<sup>512</sup> In sum, we estimate

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<sup>508</sup> Proposing Release, *supra* note 14, at 33679. This estimate was based on the rate for attorneys in SIFMA's Management and Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. We note that, in the Proposing Release, we considered the external cost burden of the notice and initial statement requirements jointly. *See* Proposing Release, *supra* note 14, at 33679–80. In this release, we have discussed the effect of the eliminated initial statement requirement on the burden estimates separately above. *See supra* Part IV.B.

<sup>509</sup> This estimate is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by the Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

<sup>510</sup> (2 hours per first Notice + 1 hour per subsequent Notice × 1 subsequent Notice in the first year) × 0.25 proportion external cost × \$401 per hour = \$301 per fund in the first year.

<sup>511</sup> (1 hour per subsequent Notice × 2 subsequent Notices in subsequent years) × 0.25 proportion external cost × \$401 per hour = \$201 per fund in subsequent years.

<sup>512</sup> (\$301 per fund in the first year + (\$201 per fund in subsequent years × 2 years)) ÷ 3 years = \$234 per fund.

that the outside counsel costs related to the Notice requirements of rule 30e-3 will impose an annual average total cost burden of about \$2,659,878 on applicable funds.<sup>513</sup>

We estimated in the Proposing Release that the external costs associated with rules 30e-1 and 30e-2 (the rules relating to shareholder reports) would be \$31,061 and \$20,000, respectively.<sup>514</sup> These costs account for preparation and transmission of shareholder reports twice a year in paper to investors. We also estimated that one-third of these external costs would be attributed to printing and mailing shareholder reports.<sup>515</sup> Although commenters did not opine on the estimated proportion of total external costs associated with rules 30e-1 and 30e-2 associated with printing and mailing expenses, as discussed below, some did provide estimates of the total costs of print and mail delivery that suggest that our estimated proportion of those costs may have been understated. Therefore, we have determined to revise our estimate upwards to two-thirds, which yields overall printing and mailing expenses that are more similar to those estimated by commenters compared to the estimates in the Proposing Release.<sup>516</sup>

We estimated in the Proposing Release that the Notice would require lower printing and mailing costs given the significantly smaller size of the documents. Specifically, we estimated that each Notice would require 10% of the annual printing and mailing costs associated with paper shareholder reports.<sup>517</sup>

We note that some commenters specifically discussed the processing fees for

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<sup>513</sup> \$234 per fund per year for the Notice × 11,367 funds estimated to rely = \$2,659,878 per year.

<sup>514</sup> Proposing Release, *supra* note 14, at 33680.

<sup>515</sup> *Id.*

<sup>516</sup> *See infra* note 544 and accompanying text.

<sup>517</sup> Proposing Release, *supra* note 14, at 33680.

broker-held accounts separately from other printing and mailing costs, while, in the Proposing Release, our estimates for printing and mailing were meant to encompass all of those costs more broadly.<sup>518</sup> Some commenters indicated that the total reduction in external cost burden may depend on the amount of processing fees incurred by funds in connection with the print and mail delivery costs associated with the conditions of rule 30e-3. As discussed above, NYSE rule amendments clarify the processing fees applicable to transmission of Notices under rule 30e-3.<sup>519</sup>

Some commenters also suggested that the costs associated with the proposed reply card requirements may have been understated.<sup>520</sup> The final rule reflects modifications from the proposed rule to eliminate the reply card requirement for Notices and have made other modifications in light of public comments—such as permitting Notices to accompany other Notices and other types of documents—that we believe will reduce the printing and mailing costs of the final rule’s conditions relative to the proposal. The final rule also reflects modifications from the proposal to permit the inclusion of content from the shareholder report in the Notice and eliminated the Notice filing requirement except when the Notice includes such content.<sup>521</sup>

In light of the above comments on the estimates in the Proposing Release and the modifications we are making today, we have determined to increase our estimate of the percentage of annual printing and mailing costs (including processing fees) associated

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<sup>518</sup> *See, e.g.*, ICI Comment Letter II.

<sup>519</sup> *See supra* notes 32–36 and accompanying text.

<sup>520</sup> *See, e.g.*, ICI Comment Letter II.

<sup>521</sup> *See supra* notes 221–222 and accompanying text. If the Notice includes content from the report to which it relates, a copy of the Notice must be filed as an exhibit to Form N-CSR, as discussed below. *See infra* Section IV.F.

with shareholder reports that will be associated with the printing and mailing of each Notice from the 10% that we had originally proposed to 15%.

We also estimate, as we did in the Proposing Release, that there would be no other external costs attributable to the Notice.<sup>522</sup> As we explained in the Proposing Release, in estimating the external costs, we took a conservative approach by using 10% of the \$10,000 estimated costs for printing and mailing shareholder reports<sup>523</sup> (which, as discussed above is approximately one-third of the estimated external costs associated with management companies' shareholder reports) to calculate the external cost of preparing and mailing a Notice as compared to a shareholder report. As noted in the Proposing Release, these estimated costs for fund shareholder reports are higher than the estimated external costs associated with UITs' shareholder reports.<sup>524</sup>

We did not receive any comments on this proposed estimate, and we are maintaining it today, except that we are revising the share of expenses upward from one-third to two-thirds. Thus, we estimate that the external cost burden associated with each Notice will be about \$3,106.<sup>525</sup>

Because each fund relying on rule 30e-3 will be required, in the final rule, to send two Notices in the first year, we estimate that the external costs for the first year on a per

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<sup>522</sup> Proposing Release, *supra* note 14, at 33680.

<sup>523</sup>  $\$31,061 \div 3 = \$10,354$ .

<sup>524</sup> Proposing Release, *supra* note 14, at 33680.

<sup>525</sup>  $\$31,061$  external costs per shareholder report  $\times \frac{2}{3}$  share of external costs attributable to printing and mailing (including processing fees)  $\times 0.15$  proportion of complete report printing and mailing costs (including processing fees) applicable to Notices =  $\$3,106$  external costs per Notice.

fund will be \$6,212.<sup>526</sup> Likewise, we estimate that in subsequent years, annual external costs on a per fund will be \$6,212 as each fund will continue to be required to send two Notices per year. As such, amortized over three years, we estimate that the Notice will be \$6,212 annual cost burden per fund. In sum, we estimate that the printing and mailing costs related to the Notice requirements of rule 30e-3 will impose an average annual total cost burden of \$70,611,804 on applicable funds.<sup>527</sup> Accordingly, together with the costs associated with outside counsel, we estimate that the Notice requirements of the rule will impose an average annual total cost burden of \$73,271,682.<sup>528</sup>

#### **D. Delivery Upon Request**

We estimated in the Proposing Release that funds may incur external costs in connection with the requirement to provide a shareholder report upon request of an investor. We estimated that the annual costs associated with printing and mailing these reports would be \$500 per fund.<sup>529</sup> We did not receive any comments on this proposed estimate, and we are maintaining it today, with adjustments to reflect the updated industry data figures since the Proposing Release. Accordingly, we estimate that the aggregate annual external costs associated with printing and mailing shareholder reports upon request will be \$5,683,500.<sup>530</sup>

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<sup>526</sup> \$3,106 external costs per Notice × 2 Notices in the first year = \$6,212 per fund in external costs in the first year.

<sup>527</sup> \$6,212 per year per fund for the Notice × 11,367 funds expected to rely = \$70,611,804 per year.

<sup>528</sup> \$2,659,878 outside counsel expenses + \$70,611,804 per year printing and mailing expenses (including processing fees) = \$73,271,682 per year.

<sup>529</sup> Proposing Release, *supra* note 14, at 33678.

<sup>530</sup> \$500 per fund × 11,367 funds estimated to rely = \$5,683,500.

In total, rule 30e-3 will impose an average total annual hour burden of 28,610 hours on applicable funds<sup>531</sup> and a total annual external cost burden of \$79,031,220 on applicable funds.<sup>532</sup>

**E. Impact on Information Collections for Rules 30e-1 and 30e-2**

We estimate, as we did in the Proposing Release, that rule 30e-3 will have the effect of reducing the external cost burden associated with rules 30e-1 and 30e-2. Rule 30e-1 requires a fund to transmit shareholder reports to its investors.<sup>533</sup> Rule 30e-2 requires UITs that invest substantially all of their assets in shares of a fund to send their investors shareholder reports containing applicable information and financial statements required to be included in reports for the underlying fund.<sup>534</sup>

In the Proposing Release, we estimated, with respect to rule 30e-1, that each fund currently incurs an annual hourly burden of 84 hours and an annual external cost burden of \$31,061 per fund.<sup>535</sup> Additionally, with respect to rule 30e-2, we estimated that each UIT currently incurs an annual hourly burden of 121 hours per UIT and an annual external cost burden of \$20,000 per UIT.<sup>536</sup>

In connection with recent amendments to Regulation S-X, which prescribes the form and content of fund financial statements, we estimated that each fund would incur

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<sup>531</sup> 8,718 hours for the posting requirements + 19,892 hours for the Notice requirements = 28,610 hours.

<sup>532</sup> \$76,038 for posting + \$73,271,682 for the Notice requirements + \$5,683,500 for the printing and mailing upon request requirements = \$79,031,220.

<sup>533</sup> Rule 30e-1(a).

<sup>534</sup> Rule 30e-2(a).

<sup>535</sup> Proposing Release, *supra* note 14, at 33680.

<sup>536</sup> *Id.*

2.5 additional burden hours per year after the first year to comply with rule 30e-1.<sup>537</sup> In connection with those amendments to Regulation S-X, we also estimated that each UIT to which the amendments apply would incur 2.5 additional burden hours per year after the first year to comply with rule 30e-2.<sup>538</sup>

As discussed above, we continue to estimate that 90% of all funds will rely on rule 30e-3.<sup>539</sup> In the Proposing Release, we estimated that the hourly burden associated with rule 30e-1 or rule 30e-2 would not change as result of proposed rule 30e-3.<sup>540</sup> We did not receive any comments on this proposed estimate, and we are maintaining it today. However, in the Proposing Release we estimated that, for those funds that rely on proposed rule 30e-3, the external cost burden would decrease.<sup>541</sup> Specifically, we estimated that for funds relying on rule 30e-3, one-third of the external costs currently attributed to rule 30e-1 relate to printing and mailing costs, which would not be applicable to funds (excluding UITs) relying on the rule, and thus their annual cost burden related to rule 30e-1 would decrease from \$31,061 to about \$20,707.<sup>542</sup> Additionally, we similarly estimated that for UITs relying on the rule, one-third of the external costs currently attributed to rule 30e-2 relate to printing and mailing costs, which

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<sup>537</sup> Reporting Modernization Adopting Release, *supra* note 14, at text following n.1562. We did not estimate any changes to the external cost burden in connection with those amendments. *Id.*

<sup>538</sup> Reporting Modernization Adopting Release, *supra* note 14, at text accompanying n.1579.

<sup>539</sup> See *supra* note 501 and accompanying text.

<sup>540</sup> Proposing Release, *supra* note 14, at 33680.

<sup>541</sup> *Id.*

<sup>542</sup> \$31,061 per fund (excluding UITs) per year in external costs  $\times$   $\frac{2}{3}$  proportion not attributable to printing and mailing expenses = \$20,707 per fund per year in external costs.

would not be applicable to UITs relying on proposed rule 30e-3, and thus their annual cost burden related to rule 30e-2 would decrease from \$20,000 to about \$13,333.<sup>543</sup>

Although commenters did not opine on the proposed estimate of the proportion of total external costs associated with rules 30e-1 and 30e-2 associated with printing and mailing expenses, some did provide estimates of the current total costs of print and mail delivery that suggest that our estimated proportion of those costs may have been understated, and we have determined to revise our estimate upwards to two-thirds, which yields overall printing and mailing expenses that are more similar to those estimated by commenters compared to the estimates in the Proposing Release.<sup>544</sup> Therefore, we estimate that, for the 90% of funds estimated to rely on rule 30e-3, the annual external burden associated with rule 30e-1 will decrease from \$31,061 to \$10,354 per fund (excluding UITs),<sup>545</sup> and the annual external burden associated with rule 30e-2 will decrease from \$20,000 to \$6,667 per UIT.<sup>546</sup>

We have also made adjustments to these estimates to reflect updated industry data since the Proposing Release regarding the number of funds. Accordingly, we estimate that for the 90% of funds estimated to rely on rule 30e-3 the total annual external cost

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<sup>543</sup> \$20,000 per UIT per year in external costs  $\times$   $\frac{2}{3}$  proportion not attributable to printing and mailing expenses = \$13,333.

<sup>544</sup> See, e.g., ICI Comment Letter I.

<sup>545</sup> \$31,061 per fund (excluding UITs) per year in external costs  $\times$   $\frac{1}{3}$  proportion not attributable to printing and mailing expenses = \$10,354 per fund (excluding UITs) per year in external costs.

<sup>546</sup> \$20,000 per UIT per year in external costs  $\times$   $\frac{1}{3}$  proportion not attributable to printing and mailing expenses = \$6,667 per UIT per year in external costs.

burden for rule 30e-1 will be \$110,943,110,<sup>547</sup> and the total annual external cost burden for all funds under rule 30e-1 will be \$147,936,761.<sup>548</sup> Additionally, we estimate that for the 90% of UITs estimated to rely on rule 30e-3 the total annual external cost burden for rule 30e-2 will be \$4,346,884,<sup>549</sup> and the total annual external cost burden for all UITs under rule 30e-2 will be \$5,786,884.<sup>550</sup>

## **F. Related Disclosure Amendments**

In a change from the proposal, as discussed above, we are amending rule 498 under the Securities Act and certain fund registration forms to require that funds intending to rely on rule 30e-3 prior to January 1, 2022 include prominent disclosures on the cover page or beginning of their summary prospectuses, and cover pages of their statutory prospectuses, and annual and semi-annual reports, for two years during the three-year period between January 1, 2019 and December 31, 2021.<sup>551</sup> With the exception of newly-formed funds, funds would generally provide these disclosures as

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<sup>547</sup>  $10,715 \text{ funds expected to rely} \times \$10,354 \text{ external costs per fund expected to rely} = \$110,943,110 \text{ in external costs for funds expected to rely.}$

<sup>548</sup>  $((11,906 \text{ total funds} - 10,715 \text{ funds expected to rely}) \times \$31,061 \text{ in external costs for funds not expected to rely}) + \$110,943,110 \text{ in external costs for funds expected to rely} = \$147,936,761 \text{ in external costs.}$

<sup>549</sup>  $652 \text{ UITs expected to rely} \times \$6,667 \text{ external costs per UIT expected to rely} = \$4,346,884 \text{ in external costs for UITs expected to rely.}$

<sup>550</sup>  $((724 \text{ total UITs} - 652 \text{ UITs expected to rely}) \times \$20,000 \text{ in external costs for UITs not expected to rely}) + \$4,346,884 \text{ in external costs for UITs expected to rely} = \$5,786,884 \text{ in external costs.}$

<sup>551</sup> *See* new paragraphs (b)(1)(vi) and (b)(1)(vii) of rule 498. Similar statements will be required in other shareholder materials. *See* new paragraph (a)(5) to Item 1 of Form N-1A; new paragraph (d)(8) to Item 27 of Form N-1A; new paragraph 1.1 to Item 1 of Form N-2; new instruction 6.g to Item 24 of Form N-2; new paragraph (a)(xi) to Item 1 of Form N-3; new instruction 6(vii) to Item 28(a) of Form N-3; new paragraph (a)(x) to Item 1 of Form N-4; new paragraph (a)(6) to Item 1 of Form N-6.

described above.<sup>552</sup> We believe that these disclosures will provide important information to both current and prospective investors in advance of the rule's effective date that not only notifies them of the intent of their fund to rely on the rule, but will also provide them with an overview of the rule's operation, including the fact that reports will be made available on a website and that they will be able to retain delivery of their reports in paper if they should so desire. Beginning January 1, 2022, these cover page disclosures will no longer be required.

Currently, we estimate that funds have the following total annual burdens for compliance with: rule 498 (15,798 hours), Form N-1A (1,596,749 hours), Form N-2 (73,250 hours), Form N-3 (2,500 hours), Form N-4 (343,117 hours), and Form N-6 (85,269 hours). Based on updated industry data figures and the amendments to rule 498 and the registration statements being adopted today, we have revised these estimates as follows.

As discussed above, we estimate that there are 12,630 funds that could rely on rule 30e-3.<sup>553</sup> Of this group, we estimate that 11,367 funds will rely on rule 30e-3 and, of those, 10,230 are funds relying on the summary prospectus rule (rule 498 under the Securities Act).<sup>554</sup> Pursuant to the amendments being adopted today, we further estimate that these funds will incur 1 burden hour for the first summary prospectus, statutory

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<sup>552</sup> See *supra* Section II.B.2.f.

<sup>553</sup> This estimate of 12,630 funds includes 9,360 mutual funds, 1,821 exchange-traded funds (1,829 ETFs less 8 UIT ETFs), 711 closed-end funds, 14 funds that could file registration statements or amendments to registration statements on Form N-3, and 724 UITs and is based on data from Commission filings as well as Investment Company Institute statistics as of December 31, 2017, available at <http://www.ici.org/research/stats>.

<sup>554</sup> See *supra* note 478 and accompanying and following text (estimating that 90% of funds that could rely on rule 30e-3 will do so). 11,367 funds = 12,630 funds × 0.90.

prospectus, or shareholder report reflecting these requirements and 0.5 hours for each additional summary prospectus, statutory prospectus, or annual and semi-annual report reflecting these requirements. These related disclosure requirements will only apply during the extended transition period, as described above. In light of the short period during which these additional requirements will be effective and the modest impact they are likely to have on external service providers such as website hosting services, outside counsel and auditors, and printing and mailing services, we do not expect them to result in additional expenses passed on to funds by their service providers in the form of additional external cost burden. Thus, we do not estimate there will be any external costs to comply with these disclosure requirements. In total, as discussed in more detail below, we estimate that the aggregate hour burden for all funds to comply with these disclosure requirements will be 14,272 hours per year.<sup>555</sup>

#### Form N-1A and Rule 498

We estimate that there are 11,181 funds that could file registration statements or amendments to registration statements on Form N-1A.<sup>556</sup> Of this group, we estimate that 10,063 funds will rely on rule 30e-3, and, of those, 9,057 are funds relying on the summary prospectus rule.<sup>557</sup> Consequently, we estimate that the amortized aggregate

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<sup>555</sup> 14,272 hours = 13,401 hours for amendments to rule 498 and Form N-1A + 853 hours for amendments to Form N-2 + 18 hours for amendments to Form N-3. *See infra* notes 561, 566, 571.

<sup>556</sup> 11,181 funds = 9,360 mutual funds + 1,821 ETFs (1,829 ETFs less 8 UIT ETFs). *See supra* note 553.

<sup>557</sup> *See supra* note 478 and accompanying and following text.  $10,063 \text{ funds} \times 0.9 = 9,057 \text{ funds}$ . We estimate that for funds that would rely on rule 30e-3 and rely upon rule 498, that the incremental burden hours associated with relying on rule 30e-3 in preparing and filing on Form N-1A would also include any burden change associated with rule 498.

annual hour burden associated with the amendments to rule 498 is 4,529 hours.<sup>558</sup> We further estimate that 1,006 funds will rely on rule 30e-3 but not the summary prospectus rule, and thus the amortized aggregate annual hour burden associated with the amendments to Form N-1A and relating to prospectuses is 503 hours.<sup>559</sup> In addition, we estimate that the total annual hour burden associated with the amendments to Form N-1A and relating to shareholder reports is 8,386 hours.<sup>560</sup> In total, we estimate that the aggregate annual hour burden associated with the amendments to rule 498 will be 4,529 hours, while the aggregate annual hour burden associated with the amendments to Form N-1A will be 8,889 hours per year.<sup>561</sup>

#### Form N-2

We estimate that there are 711 funds that could file registration statements or amendments to registration statements on Form N-2.<sup>562</sup> Of this group, we estimate that 640 funds will rely on rule 30e-3.<sup>563</sup> Consequently, we estimate that the total annual hour burden associated with the amendments to Form N-2 and relating to prospectuses is 320

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<sup>558</sup>  $9,057 \text{ funds} \times 1 \text{ hour in the first year} = 9,057 \text{ hours. } 9,057 \text{ funds} \times 0.5 \text{ hours in the second year} = 4,529 \text{ hours. } 9,057 \text{ funds} \times 0 \text{ hours in the third year} = 0 \text{ hours. } (9,057 + 4,529 + 0 \text{ hours}) \div 3 \text{ years} = 4,529 \text{ hours per year on an amortized basis.}$

<sup>559</sup>  $10,063 \text{ funds} - 9,057 \text{ funds} = 1,006 \text{ funds. } 1,006 \text{ funds} \times 1 \text{ hour in the first year} = 1,006 \text{ hours. } 1,006 \text{ funds} \times 0.5 \text{ hours in the second year} = 503 \text{ hours. } 503 \text{ funds} \times 0 \text{ hours in the third year} = 0 \text{ hours. } (1,006 + 503 + 0 \text{ hours}) \div 3 \text{ years} = 503 \text{ hours per year on an amortized basis.}$

<sup>560</sup>  $10,063 \text{ funds} \times (1 \text{ hour for the first report in the first year} + 0.5 \text{ hours for the second report in the first year}) = 15,095 \text{ hours. } 10,063 \text{ funds} \times 0.5 \text{ hours} \times 2 \text{ reports in the second year} = 10,063 \text{ hours. } 10,063 \text{ funds} \times 0 \text{ hours in the third year} = 0 \text{ hours. } (15,095 + 10,063 + 0 \text{ hours}) \div 3 \text{ years} = 8,386 \text{ hours per year on an amortized basis.}$

<sup>561</sup>  $8,889 \text{ hours} = 503 \text{ hours} + 8,386 \text{ hours.}$

<sup>562</sup> See *supra* note 553.

<sup>563</sup> See *supra* note 478 and accompanying and following text.  $711 \text{ funds} \times 0.9 = 640 \text{ funds.}$

hours.<sup>564</sup> In addition, we estimate that the total annual hour burden associated with the amendments to Form N-2 and relating to annual and semi-annual reports is 533 hours.<sup>565</sup>

In total, we estimate that the aggregate annual hour burden associated with the amendments to Form N-2 will be 853 hours per year.<sup>566</sup>

### Form N-3

We estimate that there are 14 funds that could file registration statements or amendments to registration statements on Form N-3.<sup>567</sup> Of this group, we estimate that 13 funds will rely on rule 30e-3.<sup>568</sup> Consequently, we estimate that the total annual hour burden associated with the amendments to Form N-3 and relating to statutory prospectuses is 7 hours.<sup>569</sup> In addition, we estimate that the total annual hour burden associated with the amendments to Form N-3 and relating to annual and semi-annual

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<sup>564</sup>  $640 \text{ funds} \times 1 \text{ hour in the first year} = 640 \text{ hours. } 640 \text{ funds} \times 0.5 \text{ hours in the second year} = 320 \text{ hours. } 640 \text{ funds} \times 0 \text{ hours in the third year} = 0 \text{ hours. } (640 + 320 + 0) \div 3 \text{ years} = 320 \text{ hours per year on an amortized basis. The Commission notes that this is a conservative estimate because funds registered on Form N-2, in reliance of Investment Company Act rule 8b-16(b), on average prepare and file prospectuses less frequently than funds registered on Form N-1A.}$

<sup>565</sup>  $640 \text{ funds} \times (1 \text{ hour for the first report in the first year} + 0.5 \text{ hours for the second report in the first year}) = 960 \text{ hours. } 640 \text{ funds} \times 0.5 \text{ hours} \times 2 \text{ reports in the second year} = 640 \text{ hours. } 640 \text{ funds} \times 0 \text{ hours in the third year} = 0 \text{ hours. } (960 + 640 + 0 \text{ hours}) \div 3 \text{ years} = 533 \text{ hours per year on an amortized basis.}$

<sup>566</sup>  $853 \text{ hours} = 320 \text{ hours} + 533 \text{ hours.}$

<sup>567</sup> See *supra* note 553.

<sup>568</sup> See *supra* note 478 and accompanying and following text.  $14 \text{ funds} \times 0.9 = 13 \text{ funds.}$

<sup>569</sup>  $13 \text{ funds} \times 1 \text{ hour in the first year} = 13 \text{ hours. } 13 \text{ funds} \times 0.5 \text{ hours in the second year} = 7 \text{ hours. } 13 \text{ funds} \times 0 \text{ hours in the third year} = 0 \text{ hours. } (13 + 7 + 0 \text{ hours}) \div 3 \text{ years} = 7 \text{ hours per year on an amortized basis.}$

reports is 12 hours.<sup>570</sup> In total, we estimate that the aggregate annual hour burden associated with the amendments to Form N-3 will be 18 hours per year.<sup>571</sup>

#### Form N-4

We estimate that there are 1,653 responses on Form N-4 each year. Of this group, we estimate that 1,488 of the responses will be made by funds that will rely on rule 30e-3.<sup>572</sup> Consequently, we estimate that the total annual hour burden associated with the amendments to Form N-4 and relating to statutory prospectuses is 744 hours.<sup>573</sup>

#### Form N-6

We estimate that there are 472 responses on Form N-6 each year. Of this group, we estimate that 425 of the responses will be made by funds that will rely on rule 30e-3.<sup>574</sup> Consequently, we estimate that the total annual hour burden associated with the amendments to Form N-6 and relating to statutory prospectuses is 213 hours.<sup>575</sup>

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<sup>570</sup>  $13 \text{ funds} \times (1 \text{ hour for the first report in the first year} + 0.5 \text{ hours for the second report in the first year}) = 20 \text{ hours}$ .  $13 \text{ funds} \times 0.5 \text{ hours} \times 2 \text{ reports in the second year} = 13 \text{ hours}$ .  $13 \text{ funds} \times 0 \text{ hours in the third year} = 0 \text{ hours}$ .  $(20 + 13 + 0 \text{ hours}) \div 3 \text{ years} = 11 \text{ hours per year on an amortized basis}$ .

<sup>571</sup>  $18 \text{ hours} = 7 \text{ hours} + 11 \text{ hours}$ .

<sup>572</sup> See *supra* note 478 and accompanying and following text.  $1,653 \text{ responses} \times 0.9 = 1,488 \text{ responses}$ .

<sup>573</sup>  $1,488 \text{ responses} \times 1 \text{ hour in the first year} = 1,488 \text{ hours}$ .  $1,488 \text{ responses} \times 0.5 \text{ hours in the second year} = 744 \text{ hours}$ .  $1,488 \text{ responses} \times 0 \text{ hours in the third year} = 0 \text{ hours}$ .  $(1,488 + 744 + 0 \text{ hours}) \div 3 \text{ years} = 744 \text{ hours per year on an amortized basis}$ .

<sup>574</sup> See *supra* note 478 and accompanying and following text.  $472 \text{ responses} \times 0.9 = 425 \text{ responses}$ .

<sup>575</sup>  $425 \text{ responses} \times 1 \text{ hour in the first year} = 425 \text{ hours}$ .  $425 \text{ responses} \times 0.5 \text{ hours in the second year} = 213 \text{ hours}$ .  $425 \text{ responses} \times 0 \text{ hours in the third year} = 0 \text{ hours}$ .  $(425 + 213 + 0 \text{ hours}) \div 3 \text{ years} = 213 \text{ hours per year on an amortized basis}$ .

## G. Form N-CSR

In a modification from the proposal, as discussed above, we are amending Form N-CSR to require that for fund Notices that include content from the report to which it relates, a copy of the Notice must be filed as part of the fund's report on Form N-CSR.<sup>576</sup> Under the existing collection of information, we estimate 172,899 aggregate annual burden hours to comply with Form N-CSR. Based on updated industry data figures and the amendments to Form N-CSR being adopted today, we have revised this estimate as follows.

We estimate that there are 10,715 funds that will rely on rule 30e-3 and could prepare Notices that include content from the report to which it relates.<sup>577</sup> The decision to include content from the report in the Notice is optional, and at the fund's election, but if the fund decides to include such content, then the Notice must be filed with the Commission in reports on Form N-CSR. We believe that many funds—we estimate about half of those relying on rule 30e-3—will wish to include content from the shareholder report in the Notice that they believe is particularly informative to their investors. However, we also believe that many funds—we estimate about half—will wish to preserve the maximum cost savings allowed under the rule and will therefore wish to include in the Notice only that information that is required by the rule. We therefore estimate that 50% of fund Notices will include content from the shareholder

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<sup>576</sup> See *supra* Section II.B.2.b.ii.

<sup>577</sup> 11,906 funds = 9,360 mutual funds + 1,821 ETFs (1,829 ETFs less 8 UIT ETFs) + 711 closed-end funds + 14 funds that could file registration statements or amendments to registration statements on Form N-3. See *supra* note 553. 11,906 funds relying on the rule  $\times$  0.90 = 10,715 funds estimated to rely on rule 30e-3. See *supra* note 478 and accompanying and following text.

report. Pursuant to the amendment being adopted today, we estimate that each of these funds would incur one annual burden hour to file the Notice as part of their reports on Form N-CSR (not including preparation of the Notice).

We estimate that of the 10,715 funds to rely on rule 30e-3 that could add content to the Notice from the report to which it relates, that 5,358 funds would add content from the shareholder Report to the Notice and would therefore be required to file such Notices with reports on Form N-CSR.<sup>578</sup> Consequently, we estimate that the aggregate annual hour burden associated with the amendments to Form N-CSR is 5,358 hours.<sup>579</sup>

## **V. FINAL REGULATORY FLEXIBILITY ANALYSIS**

This Final Regulatory Flexibility Analysis (“FRFA”) has been prepared in accordance with Section 4(a) of the Regulatory Flexibility Act (“RFA”).<sup>580</sup> It relates to new rule 30e-3, amendments to Forms N-1A, N-2, N-3, N-4, N-6, and N-CSR, amendments to rule 498 under the Securities Act, and amendments to rule 14a-16 under the Exchange Act. An Initial Regulatory Flexibility Analysis (“IRFA”) was prepared in accordance with the RFA and included in the Proposing Release.<sup>581</sup> The Proposing Release included, and solicited comment on, the IRFA.

### **A. Need for and Objectives of the Rule, Rule Amendments and Form Amendments**

Rule 30e-3 is designed to modernize the manner in which periodic information is transmitted to investors. Rule 30e-3 will provide certain funds with an optional method

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<sup>578</sup> 10,715 funds  $\times$  0.5 = 5,358 funds.

<sup>579</sup> 5,358 funds  $\times$  1 hour per year = 5,358 hours.

<sup>580</sup> 5 U.S.C. 604(a).

<sup>581</sup> See Proposing Release, *supra* note 14, at Section VI.

to satisfy shareholder transmission requirements by making the reports and other materials publicly accessible on a website, provided that certain other conditions are satisfied. We believe the rule will improve investors' experience while reducing expenses associated with printing and mailing shareholder reports that are borne by investment companies and ultimately their investors.

In connection with our adoption of rule 30e-3, we are also adopting related amendments to certain of our rules and forms. We are amending rule 498 and certain fund registration forms to require that funds intending to rely on rule 30e-3 include during the extended transition period prominent disclosures on the cover page or beginning of their summary prospectuses and cover pages of their statutory prospectuses and shareholder reports as discussed above.<sup>582</sup> We believe that these disclosures will provide important information to both current and prospective investors in advance of the rule's effective date that not only notifies them of the intent of their fund to rely on the rule, but will also provide them with an overview of the rule's operation, including the fact that reports will be made available on a website and that they will be able to retain delivery of their reports in paper if they should so desire. Beginning January 1, 2022, these cover page and other prominent disclosures will no longer be required. We are also amending Form N-CSR to require the filing of fund Notices that include content from the shareholder report to enable Commission review of disclosure in the Notices in conjunction with its overall review of shareholder reports and other disclosure filings.

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<sup>582</sup> See new paragraph (b)(1)(vii) of rule 498; new paragraph (a)(5) to Item 1 of Form N-1A; new paragraph (d)(8) to Item 27 of Form N-1A; new paragraph 1.1 to Item 1 of Form N-2; new instruction 6.g to Item 24 of Form N-2; new paragraph (a)(xi) to Item 1 of Form N-3; new instruction 6(vii) to Item 28(a) of Form N-3; new paragraph (a)(x) to Item 1 of Form N-4; new paragraph (a)(6) to Item 1 of Form N-6. See also *supra* Section II.B.2.f.

## **B. Significant Issues Raised by Public Comments**

In the Proposing Release, we requested comment on each aspect of the IRFA, including the number of small entities that would be affected by the proposed amendments, the existence or nature of the potential impact of the proposals on small entities discussed in the analysis and how to quantify the impact of the proposed rules. As discussed above, we received extensive comments regarding the potential costs and benefits of the proposals.<sup>583</sup> However, we did not receive comments specifically addressing the impact of proposed rule 30e-3 and related amendments on small entities subject to the rule.

## **C. Small Entities Subject to the Rule**

An investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of \$50 million or less as of the end of its most recent fiscal year.<sup>584</sup> Commission staff estimates that, as of December 31, 2017, approximately 88 registered investment companies, including 54 open- and 34 closed-end funds and 6 UITs are small entities.<sup>585</sup>

## **D. Projected Reporting, Recordkeeping, and Other Compliance Requirements**

The amendments will create, amend, and eliminate current reporting, recordkeeping and other compliance requirements for small entities.

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<sup>583</sup> See *supra* Section II.A.1.

<sup>584</sup> 17 CFR 270.0-10(a).

<sup>585</sup> This estimate is derived from an analysis of data obtained from Morningstar Direct as well as data reported on Form N-SAR filed with the Commission for the period ending December 31, 2017.

Rule 30e-3 is designed to provide funds with an optional method to satisfy requirements to transmit shareholder reports by posting reports online if they meet certain conditions.<sup>586</sup> Funds that do not maintain websites or that otherwise wish to transmit shareholder reports in paper or pursuant to the Commission's existing electronic delivery guidance would continue to be able to satisfy their transmission requirements by those transmission methods.

We estimate that approximately 88 registered investment companies are small entities that will rely on the rule.<sup>587</sup> Because funds generally already maintain websites and send materials to shareholders, for most funds, no additional professional skills beyond those currently possessed by funds are generally needed to comply with the rule's conditions. However, some funds, including funds that are small entities, that do not currently have a website, would require professional skills to develop a web page and post the required documents, and as discussed above, we estimate for such funds an external burden cost of \$2,000 per fund in the first year to develop a website and an initial 24 hours internal burden for staff to develop a webpage and post the required documents on the webpage. To the extent possible, we have attempted to quantify the costs and savings that will be experienced by small entities relying upon rule 30e-3. However, we note that the average costs and savings incurred by such small entities may in some cases be lower or higher than the costs and savings incurred by the average fund relying upon rule 30e-3.

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<sup>586</sup> *See supra* Sections II.A and II.B.2.

<sup>587</sup> The Commission's estimate is based on data obtained from registrants' filings with the Commission on Form N-SAR.

As discussed above, we estimate that reliance on rule 30e-3 will result in certain costs and benefits related to the website availability of shareholder reports for each fund, including small entities, with savings of approximately \$20,285 per year for each fund with respect to their regulatory obligation to deliver shareholder reports to investors in savings related to printing and mailing costs for shareholder reports, and costs of \$7,847 per year for each fund to implement new rule 30e-3 in costs related to website accessibility requirements, Notice preparation, and printing, mailing, and processing fees for the Notices.<sup>588</sup>

We received no direct comments on the IRFA analysis of rule 30e-3 but as discussed above, we received comments on the rule and projected expense savings from the rule. We have discussed these comments in our discussion of the final rule and our cost/benefit and PRA estimates above.<sup>589</sup>

We are amending rule 498 under the Securities Act and certain fund registration forms to require that funds intending to rely on rule 30e-3 include prominent disclosures on the cover page (or beginning) of their summary prospectuses, statutory prospectuses, and shareholder reports in advance of the date on which funds could begin to rely upon the rule.<sup>590</sup> We believe that these disclosures will provide important information to both current and prospective investors in advance of a fund's use of the rule that not only

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<sup>588</sup> *See supra* notes 372 (estimating aggregate annual gross savings to funds relying on rule 30e-3 of \$230,575,360), 393 (estimating aggregate annual gross costs of \$89,202,128), 344 (estimating 11,367 funds will rely upon rule 30e-3) and accompanying text. *See generally* Sections III.C and III.D.  $\$230,575,360 \div 11,367 \text{ funds} = \$20,285 \text{ per fund}$ .  $\$89,202,128 \div 11,367 \text{ funds} = \$7,847 \text{ per fund}$ .

<sup>589</sup> *See generally* Sections II, III.B–D, IV.C, and IV.E.

<sup>590</sup> *See supra* Section II.B.2.f.

notifies them of the intent of their fund to rely on the rule, but also provides an overview of the rule's operation, including the fact that reports will be made available on a website and that they will be able to preserve delivery of their reports in paper if they should so desire. Beginning January 1, 2022, these cover page disclosures will no longer be required. Similarly, we are amending rule 14a-16 under the Exchange Act, as proposed, to include a Notice required by rule 30e-3 among the materials that are permitted to accompany a Notice of Internet Availability of Proxy Materials.<sup>591</sup>

We estimate that the costs of these related disclosures will be \$284–\$721 in the first year and \$142–\$437 in each of the second and third years for each fund that relies upon rule 30e-3 and that could file registration statements or amendments to registration statements on Form N-1A (including funds that rely upon rule 498), Form N-2, Form N-3, Form N-4, and Form N-6 (including 88 small entities).<sup>592</sup>

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<sup>591</sup> *See id.*

<sup>592</sup> *See supra* notes 425 (estimating 10,063 funds that could file registration statements or amendments to registration statements on Form N-1A and that will rely upon rule 30e-3), 430 (estimating disclosure costs related to rule 30e-3 in the first year of \$7,144,872 and in the each of the second and third years of \$4,286,980).  $\$7,144,872 \div 10,063 \text{ funds} = \$710$ .  $\$4,286,980 \div 10,063 \text{ funds} = \$426$ ; *see supra* notes 432 (estimating 640 funds that could file registration statements or amendments to registration statements on Form N-2 and that will rely upon rule 30e-3), 436 (estimating disclosure costs related to rule 30e-3 in the first year of \$454,400 and in each of the second and third years of \$272,640).  $\$454,400 \div 640 \text{ funds} = \$710$ .  $\$272,640 \div 640 \text{ funds} = \$426$ ; *supra* note 438 (estimating 13 funds that could file registration statements or amendments to registration statements on Form N-3 and that will rely upon rule 30e-3), 442 (estimating disclosure costs related to rule 30e-3 in the first year of \$9,372 and in each of the second and third years of \$5,680).  $\$9,372 \div 13 \text{ funds} = \$721$ .  $\$5,680 \div 13 \text{ funds} = \$437$ ; 443 (estimating 1,488 funds that could file registration statements or amendments to registration statements on Form N-4 and that will rely upon rule 30e-3), 445 (estimating disclosure costs related to rule 30e-3 in the first year of \$422,592 and in the each of the second and third years of \$211,296).  $\$422,592 \div 1,488 \text{ funds} = \$284$ .  $\$211,296 \div 1,488 \text{ funds} = \$142$ ; 446 (estimating 425 funds that could file registration statements or amendments to registration statements on Form N-6 and that will rely upon rule 30e-3), 448 (estimating disclosure costs related to rule 30e-3 in the first year of \$120,700 and in the each of the second and third years of \$60,492).  $\$120,700 \div 425 \text{ funds} = \$284$ .  $\$60,492 \div 425 \text{ funds} = \$142$ .

We are amending Form N-CSR to require that for fund Notices that include content from the shareholder report to which it relates, a copy of the Notice must be filed as part of the fund's report on Form N-CSR.<sup>593</sup> We estimate that the costs for each such report that is filed (including those by 88 small entities) will be \$2,677 in the first year and \$1,903 in each subsequent year.<sup>594</sup>

**E. Agency Action to Minimize Effect on Small Entities**

The RFA directs the Commission to consider significant alternatives that would accomplish our stated objective, while minimizing any significant economic impact on small entities. The Commission considered the following alternatives for small entities in relation to our forms and form amendments and rules and rule amendments:

(i) establishing different reporting requirements or timetables that take into account resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (iii) using performance rather than design standards; and (iv) exempting small entities from all or part of the proposal.

Regarding the first alternative, we note that small entities currently follow the same requirements that larger entities do when delivering reports to shareholders. The Commission believes that establishing different reporting requirements or timetables for small entities to deliver reports to shareholders would not be consistent with the Commission's overarching goal of industry oversight and investor protection. We note

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<sup>593</sup> See *supra* Section II.B.2.b.ii.

<sup>594</sup> See *supra* notes 578 (estimating 5,358 funds that will file a Notice with content from the report it relates), 402 (estimating Form N-CSR preparation and filing costs related to rule 30e-3 in the first year of \$14,341,169 and each following year of \$10,195,144).  
 $\$14,341,169 \div 5,358 \text{ funds} = \$2,677$ .  $\$10,195,144 \div 5,358 \text{ funds} = \$1,903$ .

that, because reliance on rule 30e-3 will be optional, similar to the proposal, a particular fund is not expected to rely on the rule if the costs to the fund to rely on the rule to that fund exceeds its benefits. Funds that do not rely on the rule will therefore not incur compliance costs.

Regarding the second and third alternatives, we do not believe that clarification, consolidation, or simplification of compliance and reporting requirements, or performance rather than design standards, are appropriate in this context. In order to promote comparability and transparency, we believe that shareholder reports should be delivered to shareholders in a manner that will allow investors to better review and compare their investments across funds, including small entities. Therefore, we believe that it is appropriate in this context for shareholder reports to be delivered pursuant to uniform design, compliance, and reporting standards and requirements designed by the Commission. Further regarding clarification of compliance and reporting requirements for small entities, we note that we will publish a small entity compliance guide that will be posted on our website following adoption of rule 30e-3.

Regarding the fourth alternative, we note that in addition to providing funds with an optional method to satisfy their obligations to deliver shareholder reports by posting reports online if they meet certain conditions, rule 30e-3 is designed with certain safeguards to respond to investor protection concerns. For example, the rule requires that the shareholder reports and other required materials are publicly accessible free of charge at a website address specified in the Notice, and includes provisions designed to preserve the ability of investors to elect to receive paper reports free of charge. Therefore, we believe that exempting small entities from all or part of the proposal would not be

consistent with the Commission's overarching goal of industry oversight and investor protection.

## **VI. STATUTORY AUTHORITY**

We are adopting the rule and rule and form amendments contained in this document under the authority set forth in the Securities Act, particularly Sections 5, 6, 7, 10, and 19 thereof [15 U.S.C. 77a *et seq.*], the Exchange Act, particularly, Sections 3(b), 10, 13, 14, 15, and 36 thereof [15 U.S.C. 78a *et seq.*], the Investment Company Act, particularly, Sections 6, 8, 20, 24, 30, and 38 thereof [15 U.S.C. 80a *et seq.*], and 44 U.S.C. 3506, 3507.

### **List of Subjects**

#### **17 CFR Part 200**

Administrative practice and procedure, Organization and functions (Government agencies).

#### **17 CFR Parts 230, 239, 240, 249, 270, and 274**

Investment companies, Reporting and recordkeeping requirements, Securities.

For reasons set forth in the preamble, title 17, chapter II of the *Code of Federal Regulations* is amended as follows:

### **PART 200 - ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS**

#### **Subpart N - Commission Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers**

1. The authority citation for subpart N of part 200 continues to read as follows:

**Authority:** 44 U.S.C. 3506; 44 U.S.C. 3507.

2. Effective January 1, 2019, amend §200.800 in paragraph (b) by adding an entry in numerical order by part and section number for “Rule 30e-3”, to read as follows:

**§200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

\* \* \* \* \*

(b) \* \* \*

Information collection requirement	17 CFR part or section where identified and described	Current OMB control No.
* * * * *		
Rule 30e-3	270.30e-3	3235-0758
* * * * *		

**PART 230 - GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933**

3. The authority citation for part 230 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z-3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78o-7 note, 78t, 78w, 78ll(d), 78mm, 80a-8, 80a-24, 80a-28, 80a-29, 80a-30, and 80a-37, and Pub. L. 112-106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

\* \* \* \* \*

4. Effective January 1, 2019, amend §230.498 by revising paragraph (b)(1)(v) and adding paragraphs (b)(1)(vi) and (vii) to read as follows.

**§230.498 Summary Prospectuses for open-end management investment companies.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(v) The following legend:

Before you invest, you may want to review the Fund’s prospectus, which contains more information about the Fund and its risks. You can find the Fund’s prospectus, reports to shareholders, and other information about the Fund online at [\_\_\_\_]. You can also get this information at no cost by calling [\_\_\_\_] or by sending an email request to [\_\_\_\_].

(A) The legend must provide a website address, other than the address of the Commission’s electronic filing system; toll free (or collect) telephone number; and email address that investors can use to obtain the Statutory Prospectus and other information. The website address must be specific enough to lead investors directly to the Statutory Prospectus and other materials that are required to be accessible under paragraph (e)(1) of this section, rather than to the home page or other section of the website on which the materials are posted. The website could be a central site with prominent links to each document. The legend may indicate, if applicable, that the Statutory Prospectus and other information are available from a financial intermediary (such as a broker-dealer or bank) through which shares of the Fund may be purchased or sold.

(B) If a Fund incorporates any information by reference into the Summary Prospectus, the legend must identify the type of document (*e.g.*, Statutory Prospectus)

from which the information is incorporated and the date of the document. If a Fund incorporates by reference a part of a document, the legend must clearly identify the part by page, paragraph, caption, or otherwise. If information is incorporated from a source other than the Statutory Prospectus, the legend must explain that the incorporated information may be obtained, free of charge, in the same manner as the Statutory Prospectus. A Fund may modify the legend to include a statement to the effect that the Summary Prospectus is intended for use in connection with a defined contribution plan that meets the requirements for qualification under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)), a tax-deferred arrangement under section 403(b) or 457 of the Internal Revenue Code (26 U.S.C. 403(b) or 457), or a variable contract as defined in section 817(d) of the Internal Revenue Code (26 U.S.C. 817(d)), as applicable, and is not intended for use by other investors.

(vi) The Summary Prospectus may provide instructions describing how a shareholder can elect to receive prospectuses or other documents and communications by electronic delivery.

(vii) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Fund's shareholder reports will no longer be sent by mail, unless you specifically request paper copies of the reports from the Fund [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Fund [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Fund [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

\* \* \* \* \*

5. Effective January 1, 2021, amend §230.498 by:

a. Adding a sentence to the end of paragraph (b)(1)(v)(A); and

b. In paragraph (f)(2), adding the phrase “a Notice under §270.30e-3 of this chapter,” after “Statutory Prospectuses,”.

The addition reads as follows:

**§230.498 Summary Prospectuses for open-end management investment companies.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(v) \* \* \*

(A) \* \* \* If a Fund relies on §270.30e-3 of this chapter to transmit a report, the legend must also include the website address required by §270.30e-3(c)(1)(iii) of this chapter if different from the website address required by this paragraph (b)(1)(v)(A).

\* \* \* \* \*

**§230.498 [Amended]**

6. Effective January 1, 2022, amend §230.498 by removing paragraph (b)(1)(vii).

**PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933**

7. The authority citation for part 239 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o-7 note, 78u-5, 78w(a), 78ll, 78mm, 80a-2(a), 80a-3, 80a-8, 80a-9, 80a-10, 80a-13, 80a-24, 80a-26, 80a-29, 80a-30, and 80a-37; and sec. 107, Pub. L. 112-106, 126 Stat. 312, unless otherwise noted.

\* \* \* \* \*

**PART 240 - GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934**

8. The authority citation for part 240 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c-3, 78c-5, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78n-1, 78o, 78o-4, 78o-10, 78p, 78q, 78q-1, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, 7201 *et seq.*, and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111-203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112-106, sec. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

\* \* \* \* \*

**§240.14a-16 [Amended]**

9. Effective January 1, 2019, amend §240.14a-16 paragraph (f)(2)(iii) by adding the phrase “a Notice under §270.30e-3 of this chapter,” after “§230.498(b) of this chapter,”.

**PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934**

10. The authority citation for part 249 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 78a et seq. and 7201 et seq.; 12 U.S.C. 5461 et seq.; 18 U.S.C. 1350; Sec. 953(b), Pub. L. 111-203, 124 Stat. 1904; Sec. 102(a)(3), Pub. L. 112-106, 126 Stat. 309 (2012); Sec. 107, Pub. L. 112-106, 126 Stat. 313 (2012), and Sec. 72001, Pub. L. 114-94, 129 Stat. 1312 (2015), unless otherwise noted.

\* \* \* \* \*

**PART 270 - RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940**

11. The authority citation for part 270 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 80a-1 *et seq.*, 80a-34(d), 80a-37, 80a-39, and Pub. L. 111-203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

\* \* \* \* \*

12. Effective January 1, 2019, add §270.30e-3 to read as follows:

**§270.30e-3 Internet availability of reports to shareholders.**

(a) *General.* A Company may satisfy its obligation to transmit a report required by §270.30e-1 or §270.30e-2 (“Report”) to a shareholder of record if all of the conditions set forth in paragraphs (b) through (e), and (i) of this section are satisfied.

(b) *Availability of report to shareholders and other materials.* (1) The following materials are publicly accessible, free of charge, at the website address specified in the Notice from the date the Company transmits the Report as required by §270.30e-1 or

§270.30e-2 until the Company next transmits a report required by §270.30e-1 or §270.30e-2 with respect to the Fund:

(i) *Current report to shareholders.* The Report.

(ii) *Prior report to shareholders.* Any report with respect to the Fund for the prior reporting period that was transmitted to shareholders of record pursuant to §270.30e-1 or §270.30e-2.

(iii) *Complete portfolio holdings from reports containing a summary schedule of investments.* If a report specified in paragraph (b)(1)(i) or (b)(1)(ii) of this section includes a summary schedule of investments (§210.12-12B of this chapter) in lieu of Schedule I - Investments in securities of unaffiliated issuers (§210.12-12 of this chapter), the Fund's complete portfolio holdings as of the close of the period covered by the report, presented in accordance with the schedules set forth in §§210.12-12 through 210.12-14 of Regulation S-X (§§210.12-12 through 12-14 of this chapter), which need not be audited.

(iv) *Portfolio holdings for most recent first and third fiscal quarters.* For a Fund other than a Fund that is regulated as a money market fund under §270.2a-7 or a small business investment company registered on Form N-5 (§§239.24 and 274.5 of this chapter), the Fund's complete portfolio holdings as of the close of the Fund's most recent first and third fiscal quarters, if any, after the date on which the Fund's registration statement became effective, presented in accordance with the schedules set forth in §§210.12-12 through 210.12-14 of Regulation S-X [§§210.12-12 through 210.12-14 of this chapter], which need not be audited. The complete portfolio holdings required by this paragraph (b)(1)(iv) must be made publicly available not later than 60 days after the close of the fiscal quarter.

(2) The website address relied upon for compliance with this section may not be the address of the Commission's electronic filing system.

(3) The materials that are accessible in accordance with paragraph (b)(1) of this section must be presented on the website in a format, or formats, that are convenient for both reading online and printing on paper.

(4) Persons accessing the materials specified in paragraph (b)(1) of this section must be able to permanently retain, free of charge, an electronic version of such materials in a format, or formats, that meet the conditions of paragraph (b)(3) of this section.

(5) The conditions set forth in paragraphs (b)(1) through (b)(4) of this section shall be deemed to be met, notwithstanding the fact that the materials specified in paragraph (b)(1) of this section are not available for a time in the manner required by paragraphs (b)(1) through (b)(4) of this section, provided that:

(i) The Company has reasonable procedures in place to ensure that the specified materials are available in the manner required by paragraphs (b)(1) through (b)(4) of this section; and

(ii) The Company takes prompt action to ensure that the specified documents become available in the manner required by paragraphs (b)(1) through (b)(4) of this section, as soon as practicable following the earlier of the time at which it knows or reasonably should have known that the documents are not available in the manner required by paragraphs (b)(1) through (b)(4) of this section.

(c) *Notice.* A paper notice ("Notice") meeting the conditions of this paragraph (c) must be sent to the shareholder within 70 days after the close of the period for which the Report is being made. The Notice may contain only the information specified by

paragraphs (c)(1), (2), and (3) of this section, and may include pictures, logos, or similar design elements so long as the design is not misleading and the information is clear.

(1) The Notice must be written using plain English principles pursuant to paragraph (d) of this section and:

(i) Contain a prominent legend in bold-face type that states “[An] Important Report[s] to [Shareholders] of [Fund] [is/are] Now Available Online and In Print by Request.” The Notice may also include information identifying the Fund, the Fund’s sponsor (including any investment adviser or sub-adviser to the Fund), a variable annuity or variable life insurance contract or insurance company issuer thereof, or a financial intermediary through which shares of the Fund are held.

(ii) State that the Report contains important information about the Fund, including its portfolio holdings and financial statements. The statement may also include a brief listing of other types of information contained in the Report.

(iii) State that the Report is available at the website address specified in the Notice or, upon request, by mail, and encourage the shareholder to access and review the Report.

(iv) Include a website address where the Report and other materials specified in paragraph (b)(1) of this section are available. The website address must be specific enough to lead investors directly to the documents that are required to be accessible under paragraph (b)(1) of this section, rather than to the home page or section of the website other than on which the documents are posted. The website may be a central site with prominent links to each document. In addition to the website address, the Notice may

contain any other equivalent method or means to access the Report or other materials specified in paragraph (b)(1) of this section.

(v) Provide a toll-free (or collect) telephone number to contact the Company or the shareholder's financial intermediary, and:

(A) Provide instructions describing how a shareholder may request a paper or email copy of the Report and other materials specified in paragraph (b)(1) of this section at no charge, and an indication that he/she will not otherwise receive a paper or email copy;

(B) Explain that the shareholder can at any time elect to receive print reports in the future and provide instructions describing how a shareholder may make that election (*e.g.*, by contacting the Company or by contacting the shareholder's financial intermediary); and

(C) If applicable, provide instructions describing how a shareholder can elect to receive shareholder reports or other documents and communications by electronic delivery.

(2) The Notice may include additional methods by which a shareholder can contact the Company or the shareholder's financial intermediary (*e.g.*, by email or through a website), which may include any information needed to identify the shareholder.

(3) A Notice relating to a Report required by §270.30e-1 may include content from the Report if such content is set forth after the information required by paragraph (c)(1) of this section.

(4) The Notice may not be incorporated into, or combined with, another document, except that the Notice may incorporate or combine one or more other Notices.

(5) The Notice must be sent separately from other types of shareholder communications and may not accompany any other document or materials; *provided, however*, that the Notice may accompany:

(i) One or more other Notices;

(ii) A current Summary Prospectus, Statutory Prospectus, Statement of Additional Information, or Notice of Internet Availability of Proxy Materials under §240.14a-16 of this chapter;

(iii) In the case of a Fund held in a separate account funding a variable annuity or variable life insurance contract, such contract or the Statutory Prospectus and Statement of Additional Information for such contract; or

(iv) The shareholder's account statement.

(6) A Notice required by this paragraph (c) will be considered transmitted to a shareholder of record if the conditions set forth in §270.30e-1(f), §270.30e-2(b), §240.14a-3(e), or §240.14c-3(c) of this chapter are satisfied with respect to that shareholder.

(d) *Plain English requirements.* (1) To enhance the readability of the Notice, plain English principles must be used in the organization, language, and design of the Notice.

(2) The Notice must be drafted so that, at a minimum, it substantially complies with each of the following plain English writing principles:

(i) Short sentences;

- (ii) Definite, concrete, everyday words;
- (iii) Active voice;
- (iv) Tabular presentation or bullet lists for complex material, whenever possible;
- (v) No legal jargon or highly technical business terms; and
- (vi) No multiple negatives.

(e) *Delivery of paper copy upon request.* A paper copy of any of the materials specified in paragraph (b)(1) of this section must be transmitted to any person requesting such a copy, at no cost to the requestor and by U.S. first class mail or other reasonably prompt means, within three business days after a request for a paper copy is received.

(f) *Investor elections to receive future reports in paper.* (1) This section may not be relied upon to transmit a Report to a shareholder if the shareholder has notified the Company (or the shareholder's financial intermediary) that the shareholder wishes to receive paper copies of shareholder reports at any time after the Company has first notified the shareholder of its intent to rely on the rule or provided a Notice to the shareholder.

(2) A shareholder who has notified the Company (or the shareholder's financial intermediary) that the shareholder wishes to receive paper copies of shareholder reports with respect to a Fund will be deemed to have requested paper copies of shareholder reports with respect to:

- (i) Any and all current and future Funds held through an account or accounts with:
  - (A) The Fund's transfer agent or principal underwriter or agent thereof for the same "group of related investment companies" as such term is defined in §270.0-10; or
  - (B) A financial intermediary; and

(ii) Any and all Funds held currently and in the future in a separate account funding a variable annuity or variable life insurance contract.

(g) *Delivery of other documents.* This section may not be relied upon to transmit a copy of a Fund's currently effective Statutory Prospectus or Statement of Additional Information, or both, under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) as otherwise permitted by paragraph (d) of §270.30e-1.

(h) *Definitions.* For purposes of this section:

(1) *Company* means a Fund required to transmit a report to shareholders pursuant to §270.30e-1 or a unit investment trust required to transmit a report to shareholders pursuant to §270.30e-2.

(2) *Fund* means a registered management company and any separate series of the management company.

(3) *Statement of Additional Information* means the statement of additional information required by Part B of the applicable registration form.

(4) *Statutory Prospectus* means a prospectus that satisfies the requirements of section 10(a) of the Securities Act of 1933 (15 U.S.C. 77(j)(a)).

(5) *Summary Prospectus* means the summary prospectus described in paragraph (b) of §230.498 of this chapter.

(i) *Transition period.* (1) A Company may rely on this section to first transmit a Report to a shareholder:

(i) Beginning on January 1, 2021, if:

(A) The Company has included the required statement on each prospectus, summary prospectus, annual report to shareholders, and semi-annual report to

shareholders, as applicable, required to be delivered or transmitted to shareholders for the period beginning on the date the Company first publicly offers its shares, and ending on December 31, 2020; or

(B) The Company first publicly offers its shares on or after January 1, 2021; or

(ii) In all other cases, after the Company has included the required statement on each prospectus, summary prospectus, annual report to shareholders, and semi-annual report to shareholders, as applicable, required to be delivered or transmitted to shareholders for a period of two years or January 1, 2022, whichever comes first.

(2) For purposes of this paragraph (i), a “required statement” means the statement regarding the Company’s intent to rely on this section specified by:

(i) Its applicable registration form, and

(ii) In the case of a Fund that uses a summary prospectus, §230.498 of this chapter.

NOTE TO §270.30.e-3. For a discussion of how the conditions and requirements of this rule may apply in the context of investors holding Fund shares through financial intermediaries, see Investment Company Release No. 33115 (June 5, 2018).

13. Effective January 1, 2022, amend §270.30e-3 by:

- a. In paragraph (a), removing “, and (i)”; and
- b. Removing paragraph (i).

#### **PART 274 - FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940**

14. The authority citation for part 274 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a-8, 80a-24, 80a-26, 80a-29, and Pub. L. 111-203, sec. 939A, 124 Stat. 1376 (2010),

unless otherwise noted.

\* \* \* \* \*

15. Effective January 1, 2019, Form N-1A (referenced in §§239.15A and 274.11A) is amended by:

- a. In Item 1, adding paragraph (a)(5); and
- b. In Item 27, adding paragraph (d)(8).

The additions read as follows:

**Note:** The text of Form N-1A does not, and this amendment will not, appear in the Code of Federal Regulations.

### Form N-1A

\* \* \* \* \*

#### Item 1. Front and Back Cover Pages

(a) \* \* \*

(5) If applicable, the statement required by rule 498(b)(1)(vii) under the Securities Act.

\* \* \* \* \*

#### Item 27. Financial Statements

\* \* \* \* \*

(d) \* \* \*

(8) *Front Cover Page or beginning of Annual and Semi-Annual Report.* Include on the front cover page or at the beginning of the annual or semi-annual report a statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Fund’s shareholder reports like this one will no longer be sent by mail, unless you specifically request paper copies of the reports from the Fund [or from the your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Fund [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Fund [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

\* \* \* \* \*

16. Effective January 1, 2022, Form N-1A (referenced in §§239.15A and 274.11A) is further amended by:

- a. In Item 1, removing paragraph (a)(5); and
- b. In Item 27, removing paragraph (d)(8).

17. Effective January 1, 2019, Form N-2 (referenced in §§239.14 and 274.11a-1) is amended by:

- a. In Item 1, adding paragraph 1.*l*; and
- b. In Item 24, adding Instruction 6.g.

The additions read as follows:

**Note:** The text of Form N-2 does not, and this amendment will not, appear in the Code of Federal Regulations.

### **Form N-2**

\* \* \* \* \*

#### **Item 1. Outside Front Cover**

1. \* \* \*

*l.* A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant's shareholder reports will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

\* \* \* \* \*

**Item 24. Financial Statements**

\* \* \* \* \*

**Instructions**

\* \* \* \* \*

6. \* \* \*

g. Include on the front cover page or at the beginning of the annual or semi-annual report a statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant’s shareholder reports like this one will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

\* \* \* \* \*

18. Effective January 1, 2022, Form N-2 (referenced in §§239.14 and 274.11a-1) is further amended by:

- a. In Item 1, removing paragraph 1.*l*; and
- b. In Item 24, removing Instruction 6.g.

19. Effective January 1, 2019, Form N-3 (referenced in §§239.17a and 274.11b) is amended by:

- a. In Item 1, adding new paragraph (a)(xi); and
- b. In Item 28(a), adding new Instruction 6(vii).

The additions read as follows:

**Note:** The text of Form N-3 does not, and these amendments will not, appear in the Code of Federal Regulations.

### **Form N-3**

\* \* \* \* \*

#### **Item 1. Cover Pages**

(a) \* \* \*

(xi) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant's shareholder reports will no

longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

\* \* \* \* \*

**Item 28. Financial Statements**

(a) \* \* \*

**Instructions**

\* \* \* \* \*

6. \* \* \*

(vii) Include on the front cover page or at the beginning of the annual or semi-annual report a statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the Registrant’s shareholder reports like this one

will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary, such as a broker-dealer or bank]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all funds held with [the fund complex/your financial intermediary].

\* \* \* \* \*

20. Effective January 1, 2022, Form N-3 (referenced in §§239.17a and 274.11b) is amended by:

- a. In Item 1, removing paragraph (a)(xi); and
- b. In Item 28(a), removing Instruction 6(vii).

21. Effective January 1, 2019, Form N-4 (referenced in §§239.17b and 17 CFR 274.11c) is amended by adding new paragraph (a)(x) to Item 1.

The additions read as follows:

**Note:** The text of Form N-4 does not, and these amendments will not, appear in the Code of Federal Regulations.

**Form N-4**

\* \* \* \* \*

Item 1. Cover Page

(a) \* \* \*

(x) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the shareholder reports for portfolio companies [available under your contract] will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all portfolio companies [available under your contract].

\* \* \* \* \*

22. Effective January 1, 2022, Form N-4 (referenced in §§239.17b and 274.11c) is amended by removing paragraph (a)(x) of Item 1.

23. Effective January 1, 2019, Form N-6 (referenced in 17 CFR 239.17c and 17 CFR 274.11d) is amended by adding new paragraph (a)(6) to Item 1.

The additions read as follows:

Note: The text of Form N-6 does not, and these amendments will not, appear in the Code of Federal Regulations.

### **Form N-6**

\* \* \* \* \*

Item 1. Front and Back Cover Pages

(a) \* \* \*

(6) A statement to the following effect, if applicable:

Beginning on [date], as permitted by regulations adopted by the Securities and Exchange Commission, paper copies of the shareholder reports for portfolio companies [available under your contract] will no longer be sent by mail, unless you specifically request paper copies of the reports from the Registrant [or from your financial intermediary]. Instead, the reports will be made available on a website, and you will be notified by mail each time a report is posted and provided with a website link to access the report.

If you already elected to receive shareholder reports electronically, you will not be affected by this change and you need not take any action. You may elect to receive shareholder reports and other communications from the Registrant [or your financial intermediary] electronically by [insert instructions].

You may elect to receive all future reports in paper free of charge. You can inform the Registrant [or your financial intermediary] that you wish to continue receiving

paper copies of your shareholder reports by [insert instructions]. Your election to receive reports in paper will apply to all portfolio companies [available under your contract].

\* \* \* \* \*

24. Effective January 1, 2022, Form N-6 (referenced in §§239.17c and 274.11d) is further amended by removing paragraph (a)(6) of Item 1.

25. Effective January 1, 2021, Form N-CSR (referenced in §§249.331 and 274.128) is amended by:

a. In Item 1, designating as paragraph (a) “Include a copy of the report transmitted to stockholders pursuant to Rule 30e-1 under the Act (17 CFR 270.30e-1).”

b. In Item 1, adding new paragraph (b).

The designation and addition read as follows:

**Note:** The text of Form N-CSR does not, and these amendments will not, appear in the Code of Federal Regulations.

### **Form N-CSR**

\* \* \* \* \*

#### **Item 1. Reports to Stockholders.**

(a) Include a copy of the report transmitted to stockholders pursuant to Rule 30e-1 under the Act (17 CFR 270.30e-1).

(b) Include a copy of each notice transmitted to stockholders in reliance on Rule 30e-3 under the Act (17 CFR 270.30e-3) that contains disclosures specified by paragraph (c)(3) of that rule.

By the Commission.

Dated: June 5, 2018

Brent J. Fields  
Secretary