

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Parts 232, 239, 270 and 274**

**[Release Nos. 33-8781, IC-27697; File Number S7-05-07]**

**RIN 3235-AJ59**

**EXTENSION OF INTERACTIVE DATA VOLUNTARY REPORTING PROGRAM ON THE EDGAR SYSTEM TO INCLUDE MUTUAL FUND RISK/RETURN SUMMARY INFORMATION**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing rule amendments to extend the current interactive data voluntary reporting program to enable mutual funds voluntarily to submit supplemental tagged information contained in the risk/return summary section of their prospectuses. A mutual fund choosing to tag its risk/return summary information also would continue to file this information in HTML or ASCII format, as currently required. This extension of the voluntary program is intended to help us evaluate the usefulness to investors, third-party analysts, registrants, the Commission, and the marketplace of data tagging and, in particular, of tagging mutual fund information.

**DATES:** Comments should be submitted on or before March 14, 2007.

**ADDRESSES:** Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form

(<http://www.sec.gov/rules/proposed.shtml>);

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7-05-07 on the subject line; or
- Use the Federal eRulemaking Portal (<http://www.regulations.gov>). Follow the instructions for submitting comments.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-05-07. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site

(<http://www.sec.gov/rules/proposed.shtml>). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about the proposed rules, please contact Alberto H. Zapata, Senior Counsel, Christopher Kaiser, Branch Chief, or Brent J. Fields, Assistant Director, Office of Disclosure Regulation, Division of Investment Management, at (202) 551-6784, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5720. If you have questions about the EDGAR system, please contact Richard Heroux, EDGAR Program Manager, at (202) 551-8800, in the Office of Information Technology.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission (“Commission”) is proposing for comment amendments to rules 401<sup>1</sup> and 402<sup>2</sup> of Regulation S-T<sup>3</sup>, rule 8b-33<sup>4</sup> under the Investment Company Act of 1940 (“Investment Company Act”), and Form N-1A<sup>5</sup> under the Investment Company Act and the Securities Act of 1933 (“Securities Act”).

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<sup>1</sup> 17 CFR 232.401.

<sup>2</sup> 17 CFR 232.402.

<sup>3</sup> 17 CFR 232.10 et seq.

<sup>4</sup> 17 CFR 270.8b-33.

<sup>5</sup> 17 CFR 239.15A and 274.11A.

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## I. BACKGROUND

### A. Interactive Data and XBRL

For the past several years, the Commission has been evaluating the expanded use of interactive data tagging as a tool to improve the timeliness and accessibility of the information contained in filings with the Commission under the federal securities laws.<sup>6</sup> Data tagging uses standard definitions (or data tags) to translate text-based information into data that is interactive, that is, data that can be retrieved, searched, and analyzed through automated means.<sup>7</sup>

Interactive data has enormous potential to enable investors and other market participants to analyze and compare data from different sources more efficiently and effectively and to exchange information across various software platforms automatically.

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<sup>6</sup> See SEC to Rebuild Public Disclosure System to Make It ‘Interactive’, Securities and Exchange Commission Press Release, Sept. 25, 2006, available at: <http://www.sec.gov/news/press/2006/2006-158.htm> (Commission awards contracts totaling \$54 million to transform public company disclosure system to create a dynamic real-time search tool with interactive capabilities) (“September 25 Press Release”); Commission Announces Interactive Data Roundtable on New Software to Make Better Information a Reality, Securities and Exchange Commission Press Release, Sept. 25, 2006, available at: <http://www.sec.gov/news/press/2006/2006-160.htm>; Commission Announces Roundtable Series Giving Investors and Analysts Better Financial Data via Internet, Securities and Exchange Commission Press Release, Mar. 9, 2006, available at: <http://www.sec.gov/news/press/2006-34.htm>; SEC Offers Incentives for Companies to File Financial Reports with Interactive Data, Securities and Exchange Commission Press Release, Jan. 11 2006, available at: <http://www.sec.gov/news/press/2006-7.htm>; SEC Announces Initiative to Assess Benefits of Tagged Data in Commission Filings, Securities and Exchange Commission Press Release, July 22, 2004, available at: <http://www.sec.gov/news/press/2004-97.htm>.

<sup>7</sup> The Commission’s Electronic Data Gathering, Analysis, and Retrieval System (“EDGAR”) has allowed certain tagged data since its inception, for example, by using Standard Generalized Markup Language and Extensible Markup Language (“XML”) to tag form-specific information (such as the form type, central index key, and file number) that accompanies electronic documents submitted on EDGAR. More recently, EDGAR has employed HyperText Markup Language (“HTML”) to format documents and made limited use of XML related to financial and business information contained within certain EDGAR submissions.

Through interactive data, static text-based information can be transformed into dynamic databases that can readily be searched and analyzed, facilitating the comparison of information across companies, reporting periods, and industries. Tagged information can help investors, analysts, and other users to mine the wealth of information contained in detailed paper disclosure documents, providing users with the ability to access precisely the information in which they are interested and to analyze that data.

Interactive data also provides a significant opportunity to automate information processing throughout the business and reporting cycle, with the potential to increase accuracy and reduce costs. By ensuring that information is classified properly at each step of the cycle, and minimizing the need for human intervention and, therefore, human error, interactive data may improve the quality of information at decreased cost. These benefits can begin at the time of an initial transaction and carry forward to the point of disclosure in a Commission filing and, ultimately, to the use of the disclosed information by investors and other market participants. At each step in the process, interactive data offers the potential to replace manual reentry of information with automated processing of previously tagged data.

Tags are standardized through the development of taxonomies, which are essentially data dictionaries that describe individual items of information and mathematical and definitional relationships among the items. As tagging has continued to gain prominence in recent years, there has been substantial progress in developing data tagging taxonomies related to a language for the electronic communication of business

and financial data known as eXtensible Business Reporting Language (“XBRL”).<sup>8</sup> XBRL was developed as an open source specification that describes a standard format for tagging financial and other information to facilitate the preparation, publication, and analysis of that information by software applications.<sup>9</sup> XBRL was developed and continues to be supported by XBRL International, a collaborative consortium of approximately 450 organizations representing many perspectives in the financial reporting community.<sup>10</sup> Organizations in the consortium include issuers, public accounting firms, software companies, filing agents, data aggregators, stock exchanges, regulators, financial services companies, and industry associations.<sup>11</sup> XBRL International and its related entities have been developing standard taxonomies that are designed to classify and define financial information in accordance with U.S. Generally Accepted Accounting Principles (“GAAP”) and Commission regulations. The Commission recently announced that it is contracting with XBRL US, Inc., the U.S. based arm of XBRL International, to help complete the writing of XBRL taxonomies that would enable companies in all industries to file financial reports with the Commission using XBRL.<sup>12</sup>

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<sup>8</sup> See Edward Hand, “XBRL: The Future of Business Reporting,” NETWORK COMPUTING, Aug. 31, 2006, available at: <http://www.networkcomputing.com/showArticle.jhtml?articleID=192202551&pgno=1>.

<sup>9</sup> “Open Source” means that the software can be used by anyone without charge and is being developed in an open and collaborative setting. For a more detailed discussion about XBRL, see “How XBRL Works” on the XBRL International Web site available at: <http://www.xbrl.org/HowXBRLWorks/>.

<sup>10</sup> See “About the Organisation” page and subpages on the XBRL International Web site, available at: <http://www.xbrl.org/AboutTheOrganisation/>.

<sup>11</sup> See “Member Organisations” page and subpages on the XBRL International Web site, available at: <http://xbrl.org/viewmembers.aspx>.

<sup>12</sup> September 25 Press Release, *supra* note 6.

## B. The Voluntary Program

As part of our evaluation of the potential of interactive data tagging technology, the Commission adopted rules in 2005 instituting a program that permits filers, on a voluntary basis, to submit specified, supplemental disclosure tagged in XBRL format as an exhibit to certain filings on the Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR").<sup>13</sup> The Commission adopted the voluntary program to help evaluate the usefulness of data tagging and XBRL to registrants, investors, the Commission, and the marketplace.<sup>14</sup> In 2006, the Commission initiated an interactive data test program, in which companies, including investment companies, voluntarily agree to furnish financial data in XBRL format for at least one year and provide feedback on their experiences, including the costs and benefits.<sup>15</sup>

Under the voluntary program, filers may submit financial information using XBRL as an exhibit to the filing to which it relates, an amendment to such filing, or, if

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<sup>13</sup> Securities Act Release No. 8529 (Feb. 3, 2005) [70 FR 6556 (Feb. 8, 2005)] ("XBRL Adopting Release"). See also Securities Act Release No. 8496 (Sept. 27, 2004) [69 FR 59094 (Oct. 1, 2004)] ("XBRL Proposing Release"); Securities Act Release No. 8497 (Sept. 27, 2004) [69 FR 59111 (Oct. 1, 2004)] (concept release soliciting comment on data tagging).

<sup>14</sup> XBRL Adopting Release, *supra* note 13, 70 FR at 6556.

<sup>15</sup> More Companies Join SEC's Program to Use Interactive Data for Financial Statements, Securities and Exchange Commission Press Release, June 20, 2006, available at: <http://www.sec.gov/news/press/2006/2006-99.htm>; 17 Companies Join SEC Pilot Program to Use "Interactive Data" in Financial Reports, Securities and Exchange Commission Press Release, Mar. 29, 2006, available at: <http://www.sec.gov/news/press/2006-43.htm>; SEC Offers Incentives for Companies to File Financial Reports with Interactive Data, Securities and Exchange Commission Press Release, Jan. 11, 2006, available at: <http://www.sec.gov/news/press/2006-7.htm>. For more information about the Commission's interactive data initiatives, see the Commission Web page "Spotlight On: Interactive Data and XBRL Initiatives" available at: <http://www.sec.gov/spotlight/xbrl.htm>.

the filer is eligible, to a filing on Form 8-K<sup>16</sup> or Form 6-K.<sup>17</sup> The XBRL exhibits submitted in the voluntary program are supplemental submissions that do not replace the required American Standard Code for Information Interchange (“ASCII”) or Hypertext Markup Language (“HTML”) versions of the financial information they contain.<sup>18</sup> The data currently permitted in XBRL exhibits is limited to financial information.

The voluntary program permits any registrant to participate merely by submitting an XBRL exhibit in the required manner. XBRL exhibits are publicly available but are considered furnished rather than filed.<sup>19</sup> Although XBRL exhibits are required to accurately reflect the information that appears in the corresponding part of the official filing, the purpose of submitting XBRL data is to test the related format and technology and, as a result, investors and others should continue to rely only on the official version of a filing and not on the XBRL exhibit in making investment decisions. We have included cautionary language to this effect on the Commission Web site.<sup>20</sup>

### **C. Tagging of Mutual Fund Information**

The current voluntary program extends to investment companies, including open-end management investment companies (“mutual funds”).<sup>21</sup> Investment companies

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<sup>16</sup> 17 CFR 249.308.

<sup>17</sup> 17 CFR 249.306.

<sup>18</sup> See EDGAR Filer Manual, Volume II, Section 5.1 (Version 3, Feb. 2006).

<sup>19</sup> See infra note 57 and accompanying text.

<sup>20</sup> See “XBRL Data Submitted in the XBRL Voluntary Program on EDGAR” page on the Commission Web site, available at: <http://www.sec.gov/Archives/edgar/xbrl.html>.

<sup>21</sup> See SEC XBRL Voluntary Program Extends to Investment Companies, Securities and Exchange Commission Press Release, Aug. 8, 2005, available at: <http://www.sec.gov/news/press/2005-112.htm>.

may presently submit XBRL exhibits only to Form N-CSR,<sup>22</sup> the semi-annual filing to submit certified shareholder reports, or to Form N-Q,<sup>23</sup> the quarterly report of portfolio holdings.<sup>24</sup>

As part of our evaluation of data tagging, the Commission held a roundtable in June 2006 that focused, in part, on the role of data tagging and interactive data in improving the quality of mutual fund disclosures. Representatives from investor groups, the mutual fund industry, analysts, and others discussed how the Commission could leverage the power of interactive data and other technology to provide mutual fund investors with better information.<sup>25</sup>

Significant discussion at the June roundtable concerned the importance of providing mutual fund investors with better, more user-friendly access to key information, such as information about investment objectives and strategies, risks, and

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<sup>22</sup> 17 CFR 249.331 and 274.128.

<sup>23</sup> 17 CFR 249.332 and 274.130.

<sup>24</sup> Voluntary participants must use the standard U.S. GAAP investment management taxonomy (Version 2.1) approved by XBRL International. See EDGAR Filer Manual, Volume II, Section 5.2.4.1 (Version 3, Feb. 2006); “Frequently Asked Questions about the XBRL Voluntary Filing Program” page on the Commission Web site, available at: <http://www.sec.gov/info/edgar/xbrlfaq032105.htm>.

<sup>25</sup> See Transcript of June 12 Interactive Data Roundtable, June 12, 2006, available at: <http://www.sec.gov/spotlight/xbrl/xbrlofficialtranscript0606.pdf> (“June 12 Roundtable Transcript”); Webcast Archive of June 12 Interactive Data Roundtable, June 12, 2006, available at: <http://www.connectlive.com/events/secxbrl/>. See also Agenda of October 3 Interactive Roundtable, Oct. 3, 2006 available at: <http://www.sec.gov/spotlight/xbrl/xbrlroundagenda-100306.htm>; Webcast Archive of October 3 Interactive Data Roundtable, Oct. 3, 2006, available at: <http://www.connectlive.com/events/secinteractivedata100306/> (“October 3 Roundtable Webcast”) (second Commission interactive data roundtable, focusing on new software using interactive data to provide investor-friendly research tools).

costs.<sup>26</sup> This key information is included in the mutual fund prospectus,<sup>27</sup> but it can be difficult for investors to extract this key information from lengthy prospectuses, which often cover multiple funds and contain a wealth of other information. Much of this information is required to be included in the risk/return summary section of the prospectus,<sup>28</sup> and tagging this information could provide powerful tools for investors.<sup>29</sup>

We believe that exploring the tagging of the information in the risk/return summary section is an important step in our interactive data program. With almost half of all U.S. households owning mutual funds,<sup>30</sup> typically to fund their education, retirement, and other basic needs, improving the quality of mutual fund disclosure is important to millions of Americans. Tagging of key mutual fund information could help to streamline the delivery of mutual fund information and provide investors, analysts, and others with improved tools to compare funds based upon, among other things, costs, investment objectives, strategies, and risks. In addition, the risk/return summary

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<sup>26</sup> See Barbara Roper, Director of Investor Protection, Consumer Federation of America, June 12 Roundtable Transcript, supra note 25, at 20 & 22. See also Paul G. Haaga, Jr., Executive Vice President, Capital Research and Management Company, id. at 90; William D. Lutz, Ph.D., Professor of English, Rutgers University, id. at 88; Elisse B. Walter, Senior Executive Vice President, NASD, id. at 40-41.

<sup>27</sup> Items 2 and 3 of Form N-1A [17 CFR 239.15A and 274.11A] (risk/return summary section of the prospectus).

<sup>28</sup> Id.

<sup>29</sup> See Chairman Christopher Cox, June 12 Roundtable Transcript, supra note 25, at 8 (“Interactive data, the tagging of these key facts [in the prospectus] so that they can easily be identified and extracted[,] offers the possibility of dramatic improvement over traditional disclosure delivery for mutual fund investors.”); Paul Schott Stevens, President and Chief Executive Officer, Investment Company Institute, id. at 72 (“XBRL tagging can help turn the Risk/Return Summary into an even more powerful tool than the Commission envisioned when it first adopted it in 1998 as a way to help investors compare one fund with another through the standardization of the information and the format in which it’s presented.”).

<sup>30</sup> 2006 Investment Company Fact Book, at 47, Investment Company Institute (2006), available at: [http://www.icifactbook.org/pdf/2006\\_factbook.pdf](http://www.icifactbook.org/pdf/2006_factbook.pdf).

information is largely narrative in format, and exploring the viability of tagging this information will provide us with valuable insights as we assess the potential for tagging other primarily narrative information.

As noted above, XBRL International has approved an investment management XBRL U.S. GAAP financial reporting taxonomy.<sup>31</sup> That taxonomy generally does not extend to the information in the risk/return summary section. In March 2006, the Investment Company Institute (the “ICI”)<sup>32</sup> announced an initiative to create a taxonomy to cover the risk/return summary information in the prospectus.<sup>33</sup> The ICI recently released its draft risk/return summary taxonomy and announced that it would provide a 45-day period for public review and comment.<sup>34</sup> We are proposing amendments to the voluntary program that would, if adopted, permit mutual funds to tag the information in the risk/return summary section of their prospectuses using the taxonomy developed by the ICI.

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<sup>31</sup> Supra note 24.

<sup>32</sup> The ICI is a national association of the American investment company industry.

<sup>33</sup> Stevens Calls for Greater Use of Internet; Announces Initiative to Develop XBRL Data Tagging Technology, ICI Press Release, Mar. 20, 2006, available at: [http://ici.org/statements/nr/06\\_news\\_mfimc.html#TopOfPage](http://ici.org/statements/nr/06_news_mfimc.html#TopOfPage); Remarks of Paul Schott Stevens, President and Chief Executive Officer, Investment Company Institute, at the Mutual Funds and Investment Management Conference, Mar. 20, 2006, available at: [http://ici.org/statements/remarks/06\\_mfimc\\_stevens\\_spch.html#TopOfPage](http://ici.org/statements/remarks/06_mfimc_stevens_spch.html#TopOfPage); Statement of the Investment Company Institute at the June 12, 2006 Interactive Data Roundtable, available at: <http://www.sec.gov/news/press/4-515/ici050906.pdf>.

<sup>34</sup> ICI Unveils Draft XBRL Taxonomy For Public Review, Investment Company Institute Press Release, Jan. 4, 2007, available at: [http://www.ici.org/home/07\\_news\\_xbrl\\_txnmy.html#TopOfPage](http://www.ici.org/home/07_news_xbrl_txnmy.html#TopOfPage). The taxonomy, as well as instructions for commenting on the taxonomy, are available at <http://members.ici.org/xbrl>. See also Statements of SEC Chairman Christopher Cox and Division of Investment Management Director Andrew Donohue Regarding the Investment Company Institute’s Mutual Fund Interactive Data Taxonomy, Securities and Exchange Commission Press Release, Jan. 4, 2007, available at: <http://www.sec.gov/news/press/2007/2007-2.htm>.

## **II. DISCUSSION**

As part of our ongoing effort to evaluate the usefulness of data tagging, we are proposing amendments to extend the voluntary program to enable mutual funds to submit exhibits containing tagged risk/return summary information attached to EDGAR filings.<sup>35</sup> We expect to permit any mutual fund to participate, without pre-approval, merely by submitting the risk/return summary information in the required manner. As we continue to gain experience with interactive data, we will evaluate the benefits of data tagging to investors, analysts, and others. If, in the future, we consider requiring filers to tag the risk/return summary information, that would be the subject of a separate rulemaking proposal.

### **A. Expansion of Voluntary Program Content**

Currently, the XBRL data furnished under the voluntary program must consist of at least one item from a list of enumerated mandatory content (“Mandatory Content”), including financial statements, earnings information, and, for registered management investment companies, financial highlights or condensed financial information.<sup>36</sup> This may be accompanied by one or more related items from a list of optional content, including (1) audit opinions; (2) interim review reports; (3) reports of management on the financial statements; (4) certifications; (5) management’s discussion and analysis of financial condition and results of operations; (6) management’s discussion and analysis

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<sup>35</sup> The proposed amendments, if adopted, would not alter the voluntary program as it applies to the furnishing of XBRL information by non-investment companies.

<sup>36</sup> Rule 401(b)(1) of Regulation S-T [17 CFR 232.401(b)(1)].

or plan of operation; (7) operating and financial review and prospects; and (8) management's discussion of fund performance.<sup>37</sup>

We propose to add the risk/return summary information set forth in Items 2 and 3 of Form N-1A as a new item of Mandatory Content.<sup>38</sup> As with all tagged exhibits under the voluntary program, submissions of tagged exhibits containing risk/return summary information would be supplemental and would not replace the required HTML or ASCII version of the information called for in Form N-1A. Volunteers would be required to file their complete official registration statements to ensure that all investors have access to information upon which to base their investment decisions.<sup>39</sup> While tagged exhibits would be required to reflect the same information contained in the risk/return summary section of the related official Form N-1A filing, we emphasize that investors and others should continue to rely on the official filing rather than the tagged exhibit.

Any mutual fund submitting tagged risk/return summary information would be required to include this information as an exhibit to an amendment to a previous filing on

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<sup>37</sup> Rule 401(b)(2) of Regulation S-T [17 CFR 232.401(b)(2)].

<sup>38</sup> Proposed rule 401(b)(1)(iv).

<sup>39</sup> Consistent with the current voluntary program, once received by the Commission, the official filing and the tagged risk/return summary information submitted as exhibits to the official filing would undergo technical validations. The official filing would continue to follow the normal process for receipt and acceptance. That is, it would be suspended if it fails its validation criteria. If the official filing meets its validation criteria, but any tagged risk/return summary document submitted as an exhibit to the official filing fails its own validation criteria, all tagged documents would be removed and the official filing would be accepted and disseminated without the tagged documents. The volunteer would be notified of the submission problem with the tagged documents. If the official filing failed to meet the required receipt and acceptance process and was suspended for any reason, any tagged risk/return summary information submitted with the official filing would also be suspended.

Form N-1A.<sup>40</sup> Form N-1A filings, which contain mutual fund registration statements (or amendments thereto), differ from the other filings used in the voluntary program in that they are often subject to revision prior to effectiveness. For this reason, the proposed rules would not permit the submission of a tagged exhibit that is related to a registration statement or an amendment that is not yet effective. More specifically, the proposed rules would provide that a tagged exhibit to a Form N-1A filing, whether the filing is an initial registration statement or an amendment thereto, could be submitted only as an amendment to the filing to which the tagged exhibit relates and only after the effective date of such filing.<sup>41</sup> An exhibit containing tagged risk/return summary information could be submitted under rule 485(b) of the Securities Act, which provides for immediate effectiveness of amendments filed to make non-material changes and for certain other purposes, and would only need to contain the new exhibit, a facing page, a signature page, a cover letter explaining the nature of the filing, and a revised exhibit index. Filers submitting tagged risk/return summary information should not include the ICI taxonomy in their submissions as this taxonomy will be stored as a part of the EDGAR system.

Similar to the current voluntary program, volunteers would be free to submit tagged risk/return summary information regularly or from time to time, and volunteers could stop and start as they choose. Participating in the voluntary program would not create a continuing obligation for a volunteer to submit tagged risk/return summary

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<sup>40</sup> See proposed rule 401(a) of Regulation S-T; proposed rule 8b-33. A mutual fund submitting tagged risk/return summary information as an exhibit to Form N-1A would be required to name each document “EX-100” as specified in the EDGAR Filer Manual. Proposed rule 8b-33. We also propose a technical amendment to General Instruction B.4.(b) of Form N-1A to add rule 8b-33 to the list of general provisions that apply to the filing of registration statements on Form N-1A.

<sup>41</sup> Proposed rule 401(a); see also proposed rule 8b-33.

information as an exhibit to a subsequent post-effective amendment. A volunteer would, however, be required to amend any tagged risk/return summary exhibits that do not comply with the content and format requirements of rule 401, e.g., because they do not reflect the same information as the corresponding official filing.<sup>42</sup>

We also propose amendments that will require investment companies to tag information in a manner that will permit the information for each class<sup>43</sup> to be separately identified.<sup>44</sup> Currently, rule 8b-33 under the Investment Company Act requires that investment companies participating in the voluntary program submit tagged documents in a manner that will permit the information for each series of an investment company registrant<sup>45</sup> and each contract of an insurance company separate account<sup>46</sup> to be separately identified.<sup>47</sup> We propose to amend this rule to require that investment companies submit tagged documents in a manner that will permit the information for

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<sup>42</sup> XBRL Adopting Release, supra note 13, 70 FR at 6559 n. 48. See rule 401(c)(1) (requires tagged exhibits to reflect the same information as corresponding official filing).

<sup>43</sup> A mutual fund may issue more than one class of shares that represent interests in the same portfolio of securities with each class, among other things, having a different arrangement for shareholder services or the distribution of securities, or both. Rule 18f-3 under the Investment Company Act [17 CFR 270.18f-3].

<sup>44</sup> Proposed rule 8b-33.

<sup>45</sup> A mutual fund may issue multiple “series” of shares, each of which is preferred over all other series in respect of assets specifically allocated to that series. Rule 18f-2 under the Investment Company Act [17 CFR 270.18f-2]. Each series is, in effect, a separate investment portfolio.

<sup>46</sup> Variable annuity contracts and variable life insurance contracts are issued through insurance company separate accounts.

<sup>47</sup> Rule 8b-33 under the Investment Company Act [17 CFR 270.8b-33].

each class to be separately identified because expense and performance information in the risk/return summary is class-specific.<sup>48</sup>

The amendments we are proposing also would provide mutual funds with an additional option to submit tagged financial highlights or condensed financial information. Currently, mutual funds may submit this information as an exhibit to Form N-CSR.<sup>49</sup> The proposals, if adopted, also would permit mutual funds to submit their financial highlights or condensed financial information as a tagged exhibit to an amendment to the Form N-1A filing to which the information relates.<sup>50</sup>

We request comment on the proposed expansion of the voluntary program to include risk/return summary information.

- Is it beneficial to tag mutual fund risk/return summary information? Is this portion of the mutual fund prospectus an appropriate place to begin evaluating the

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<sup>48</sup> We have previously indicated that rule 8b-33 would require investment companies to submit tagged XBRL documents separately for each series of an investment company registrant. See XBRL Proposing Release, *supra* note 13, 69 FR at 59097 n. 49. Under proposed amended rule 8b-33, a mutual fund would not be required to submit tagged risk/return summary information in separate documents for each series or class, provided that the information is tagged in such a manner that the information may be separately identified by series and class.

<sup>49</sup> Rule 401(a) and (b)(1)(iii) of Regulation S-T [17 CFR 401(a) and (b)(1)(iii)] (permitting financial highlights or condensed financial information set forth in Item 8(a) of Form N-1A to be submitted as Mandatory Content); rule 8b-33. Mutual funds must include their financial highlights or condensed financial information in every annual and semi-annual report transmitted to shareholders. Items 22(b)(2) and (c)(2) of Form N-1A (requiring annual or semi-annual reports to include the information required by Item 8(a) of Form N-1A). Mutual funds must include a copy of their annual or semi-annual report transmitted to shareholders with their Form N-CSR filed with the Commission. Item 1 of Form N-CSR.

<sup>50</sup> Proposed rule 8b-33 (permitting tagged exhibits under the voluntary program to be submitted on Form N-1A); Item 8(a) of Form N-1A (requiring mutual funds to provide financial highlights information); rule 401(a) and (b)(1)(iii) of Regulation S-T (permitting information set forth in Item 8(a) of Form N-1A as Mandatory Content under the voluntary program).

tagging of non-financial information? Is there other mutual fund information that should be included in the voluntary program?

- What effect would tagged data have on investors', analysts', and other users' ability to analyze mutual funds' risk/return summary disclosure? Would tagged risk/return summary information have an effect on the usefulness of disclosure in Commission filings?
- We are not proposing to amend that portion of rule 401(b)(1) that currently requires that Mandatory Content "consist of a complete set of information for all periods presented in the corresponding official EDGAR filing." Should mutual funds that submit tagged risk/return summary information be required to tag all of the information in the risk/return summary section of the corresponding official filing or should they be permitted to tag some, but not all, of the information? For example, if a fund's official filing contains information for more than one series or class, should the fund be permitted to submit tagged risk/return summary information for fewer than all of the series and classes? As another example, should a mutual fund be permitted to tag discrete portions of the risk/return summary information, such as cost and performance information, while not tagging others, such as narrative information?
- Should mutual funds be permitted to submit tagged risk/return information related to registration statements or post-effective amendments that are not yet effective? Would this raise any liability issues? If mutual funds are permitted to submit tagged risk/return summary information prior to effectiveness, what safeguards would be appropriate? For example, should funds be required to submit revised

tagged documents if there are any changes (or any material changes) to the risk/return summary disclosure in the effective registration statement or amendment and/or should there be additional required disclosure to specifically caution investors and others that the information may differ from that in the effective filing?

- The proposed amendments would not create a continuing obligation for a volunteer to submit tagged risk/return summary information as an exhibit to a subsequent post-effective amendment. When a mutual fund that has submitted tagged risk/return summary information amends its registration statement, should we require the fund to submit updated tagged risk/return summary information? Should it depend on the materiality of the amendments? How would a requirement to update tagged exhibits affect participation in the voluntary program? If we do not impose a continuing obligation to update tagged exhibits, should we require additional disclosure or other safeguards?
- Will the proposed amendment to rule 8b-33, providing that investment companies must tag information in a manner that will permit the information for each class to be separately identified, raise any issues with respect to any investment company information that may be tagged under the voluntary program? Should we specify that only risk/return summary information must be tagged in a manner that will permit the information for each class to be separately identified? Will the risk/return summary taxonomy in its current state of development permit the information for each series and class to be separately identified? If not, how should it be modified to permit this?

- Should mutual funds be required to submit separate tagged risk/return summary exhibits for each series or class? Instead, should they be permitted to submit exhibits that combine multiple series or classes of the same registrant, provided that the information is tagged in such a manner that the information may be separately identified by series and class?
- We plan to permit all filers on Form N-1A to submit documents containing tagged risk/return summary information as exhibits to their official Form N-1A filings so long as they comply with the requirements of the voluntary program. Should we limit participation, such as by size or type of mutual fund? If so, what should be the criteria for participating? If so, why?
- What steps can we take to encourage mutual funds to participate in the expanded voluntary program?

#### **B. Required Disclosure**

Under the current voluntary program, any official filing with which tagged exhibits are submitted must disclose that the purpose of submitting the tagged exhibits is to test the related format and technology and, as a result, investors should not rely on the exhibits in making investment decisions.<sup>51</sup> We are proposing that this disclosure be required in the exhibit index of any Form N-1A filing that includes a tagged exhibit.<sup>52</sup>

The current voluntary program also requires any official filing with which tagged exhibits are submitted to disclose that the information contained in the exhibits is

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<sup>51</sup> Rule 401(d)(1)(ii) of Regulation S-T [17 CFR 232.401(d)(1)(ii)].

<sup>52</sup> Proposed rule 401(d)(2)(i). Rule 483(a) of Regulation C [17 CFR 230.483(a)] requires, among other things, that a registration statement of a registered investment company “contain an exhibit index, which should immediately precede the exhibits filed with such registration statement.”

“unaudited” or “unreviewed.”<sup>53</sup> We are proposing to require this disclosure in a Form N-1A filing with which tagged financial highlights or condensed financial information is submitted. We are not proposing to require this disclosure in a Form N-1A filing when the tagged exhibits to the filing contain only risk/return summary information because this information is not ordinarily audited or reviewed by an independent auditor.<sup>54</sup>

We request comment on the proposed cautionary disclosures that would be required to accompany the submission of tagged information that accompanies a Form N-1A filing.

- Should we require the disclosure concerning whether the information is “unaudited” or “unreviewed” to accompany exhibits containing tagged risk/return summary information?
- Is additional or different language necessary for the cautionary disclosures?
- Is the exhibit index to a Form N-1A filing the appropriate place for the cautionary disclosures?

### **C. Liability Issues**

We propose to extend to tagged risk/return summary information limited protection from liability that is similar to the protection provided under the current voluntary program. As is the case with the current program, we would provide this protection because liability remains for the official filing, and the program is experimental, contains certain safeguards, and should not unnecessarily deter volunteers from participating.

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<sup>53</sup> Rule 401(d)(1)(i) of Regulation S-T [17 CFR 232.401(d)(1)(i)].

<sup>54</sup> Proposed rule 401(d)(1)(i).

Currently, tagged exhibits are not deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934 (“Exchange Act”)<sup>55</sup> or Section 34(b) of the Investment Company Act,<sup>56</sup> or otherwise subject to the liability of these sections.<sup>57</sup> In addition, the current rules also provide more general relief from liability under the securities laws, including the Securities Act, the Exchange Act, the Trust Indenture Act of 1939, and the Investment Company Act, for information in a tagged exhibit that complies with the content and format requirements of the voluntary program to the extent that the information in the corresponding portion of the official EDGAR filing was not materially false or misleading.<sup>58</sup>

Unlike the filings currently included in the voluntary program, Form N-1A is a registration form under both the Securities Act and the Investment Company Act; and volunteers submitting tagged exhibits to that form also could face potential registration statement liability under the Securities Act. As a result, we propose to extend the liability protection under the voluntary program to include Section 11 of the Securities Act.<sup>59</sup>

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<sup>55</sup> 15 U.S.C. 78r.

<sup>56</sup> 15 U.S.C. 80a-33(b).

<sup>57</sup> Rule 402(a)(1) under Regulation S-T [17 CFR 232.402(a)(1)]. Further, because the tagged documents are not filed under the Exchange Act, they are not incorporated by reference into registration statements filed under the Securities Act or prospectuses they contain. These protections apply regardless of whether the documents are exhibits to a document otherwise incorporated by reference into a filing.

<sup>58</sup> Rule 402(b) of Regulation S-T [17 CFR 232.402(b)].

<sup>59</sup> In addition, the current provisions of rule 402(a) would apply to tagged risk/return summary information. In particular, a tagged exhibit on Form N-1A would not be deemed incorporated by reference into another filing, regardless of whether the tagged exhibit is an exhibit to a document otherwise incorporated by reference into another filing. Rule 402(a)(2) under Regulation S-T [17 CFR 232.402(a)(2)]. All other liability and antifraud provisions of the Securities Act, Exchange Act, and Investment Company Act would apply. Rule 402(a)(3) under Regulation S-T [17 CFR 232.402(a)(3)]. For example, material misstatements or omissions in a tagged submission would continue to

Specifically, we propose to amend rule 402(a) to provide that tagged exhibits are not deemed filed for purposes of Section 11 or otherwise subject to the liabilities of that section. In addition, we propose to amend rule 402(a) to state explicitly that tagged exhibits are not part of any registration statement to which they relate.<sup>60</sup> We will continue to caution users on the Commission’s Web site that documents submitted under the voluntary program should not be relied upon for making investment decisions, and users should continue to rely on the company’s official filing.<sup>61</sup>

We do not propose to modify the provision that affords volunteers general relief from liability under the federal securities laws to the extent that the information in the corresponding portion of the official EDGAR filing was not materially false or misleading.<sup>62</sup> That provision includes liability protections under the Securities Act, and it would apply to tagged documents submitted as exhibits on Form N-1A.

We request comment on the proposed liability protections for tagged risk/return summary information.

- Is it necessary or appropriate to extend liability protection to Section 11 of the Securities Act? Should we modify the proposed liability provisions in any way?

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be subject to liability under Section 10(b) [15 U.S.C. 78j(b)] and rule 10b-5 [17 CFR 240.10b-5] under the Exchange Act.

<sup>60</sup> Section 11 of the Securities Act applies to “any part of the registration statement, when such part became effective.” The Commission takes a similar approach with unofficial PDF copies contained in electronic submissions. See Rule 104(d) of Regulation S-T [17 CFR 232.104(d)]. Similar to the other protections in the current voluntary program, Section 11 liability relief, under the proposed rules, would not extend to the information the official filing contains.

<sup>61</sup> See supra note 20.

<sup>62</sup> Rule 402(b). We are, however, proposing technical amendments to rule 402(b) to replace each reference to “Item 401” with “Rule 401.” Proposed rule 402(b).

- Should the tagged risk/return summary information be considered filed or furnished for purposes of the voluntary program? Should the tagged risk/return summary documents be deemed not to be part of any registration statement to which they relate?
- With regard to risk/return summary submissions, are the proposed liability provisions sufficient to protect volunteers and to encourage participation in the voluntary program? To encourage participation in the voluntary program, should liability protections be increased beyond those proposed? Would investors have sufficient protection under the proposed amendments? For the protection of investors, should liability protections be decreased from those proposed?

#### **D. The Risk/Return Summary Taxonomy and Software Tools**

As discussed above, the taxonomy to tag the risk/return summary information is being developed by the Investment Company Institute. The ICI has released the draft risk/return summary taxonomy for public review and comment, and we expect that the ICI will submit the taxonomy to XBRL US, Inc., for evaluation and approval in accordance with their procedures.<sup>63</sup> In light of the purpose of the voluntary program, which is to test and evaluate tagging technology, we anticipate permitting mutual funds to submit documents containing risk/return summary information that is tagged using the ICI's taxonomy prior to final approval of the taxonomy by XBRL US, Inc.

Commercial off-the-shelf products that provide means to view tagged information in a rendered, or human readable, format and to compare or analyze tagged information

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<sup>63</sup> XBRL US, Inc., represents the United States to XBRL International. XBRL US, Inc., is responsible for organizing and sponsoring taxonomies from the United States, including the main accounting standards for United States business reporting.

are available. We will assess whether to provide such software tools on our Web site for use with risk/return summary information. For example, the Commission Web site currently provides access to a prototype XBRL Web application that converts tagged data received in the current voluntary program into rendered format.<sup>64</sup> If we do provide rendering or analysis tools, we intend to include appropriate cautionary language to the effect that investors should rely only on the information in the official version of a filing and not on the tagged documents submitted as part of the voluntary program in making investment decisions. While we may decide to proceed with the expansion of the voluntary program without providing rendering or analysis tools, we will continue to evaluate the use of such tools to aid the investing public.

We request comment on the proposed use of the ICI's risk/return summary taxonomy and the need for the development of rendering and other tools.

- Is the taxonomy for risk/return summary information created by the ICI sufficiently developed that we should permit its use in the voluntary program? If not, explain what changes or procedural steps are needed prior to use. What specific criteria should be applied to determine whether the risk/return summary taxonomy is sufficiently developed?
- Is there anything related to the process for developing and approving the risk/return summary taxonomy that should affect its use or otherwise raise concerns?
- The process for approving a taxonomy as XBRL includes testing and technical modification. Should the Commission permit use of a risk/return summary

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<sup>64</sup> See “Interactive Financial Report Viewer — Preview Release” Web page on the Commission Web site, available at: <http://www.sec.gov/spotlight/xbrl/xbrlwebapp.htm>.

taxonomy in the voluntary program that has not been acknowledged or approved as XBRL?

- A tagged submission that a volunteer creates can adhere to either a standard taxonomy or a standard taxonomy with extensions. Extensions to a standard taxonomy are additional tags defined by a particular user that further refine the tags contained in the standard taxonomy. We expect that mutual funds will be permitted to submit extensions to the standard risk/return summary taxonomy. Given the narrative format of much risk/return summary information, does tagging of this information raise particular problems with regard to extensions or other facets of data tagging? For what purposes would mutual funds want or need to make use of extensions? Are there sufficient software tools available to develop extensions to the risk/return summary taxonomy, if necessary? To what extent would the use of extensions reduce the comparability among risk/return summary information that is tagged? Are there any reasons why the use of extensions would be inappropriate with regard to risk/return summary information?
- What are the advantages and disadvantages of the Commission providing on its Web site tools to render the tagged risk/return summary information in human readable form or to permit users to analyze and compare tagged risk/return summary information submitted by different mutual funds? If we were to provide a rendering tool, what, if any, liability or other concerns would be raised by the fact that the presentation would be different from the risk/return summary information as presented in a registrant's official prospectus? What, if any,

liability or other concerns would analytical or comparison tools raise? What, if any, disclaimers would be necessary to address any liability concerns related to rendering, analytical, or comparison tools? If we were to provide a rendering tool, would it hinder the ability of a volunteer to present its tagged risk/return summary information in as much detail as, and in a manner substantially similar to, its official filing? If we do not provide rendering, analytical, or comparison tools, would it hinder participation in the voluntary program or limit our ability to explore the usefulness of tagged risk/return summary information?

#### **E. Effective Date**

If we adopt the proposed amendments, we expect the effective date to be thirty days after publication of the adopting release in the Federal Register. The Commission requests comment on this proposed effective date.

### **III. GENERAL REQUEST FOR COMMENTS**

We request comment not only on the specific issues we discuss in this release, but on any other approaches or issues that we should consider in connection with the proposed amendments. We seek comment from any interested persons, including those required to file information with us on the EDGAR system, as well as investors, disseminators of EDGAR data, industry analysts, EDGAR filing agents, and any other members of the public.

### **IV. PAPERWORK REDUCTION ACT**

The proposed rule and form amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").<sup>65</sup>

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<sup>65</sup> 44 U.S.C. 3501 *et seq.*

We are submitting 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. Provision of information under the proposed amendments would be voluntary and would not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number.

The title for the collection of information is "Voluntary XBRL-Related Documents" (OMB Control No. 3235-0611). The proposed amendments would extend the current interactive data voluntary reporting program to enable mutual funds voluntarily to submit tagged information contained in the risk/return summary section of their prospectuses on EDGAR as exhibits to Form N-1A filings.

**A. Reporting and Cost Burden Estimate**

**1. The Voluntary Program**

We are proposing to increase the burden associated with the existing collection of information for Voluntary XBRL-Related Documents to reflect the proposed amendments, which would extend the current interactive data voluntary reporting program to enable mutual funds voluntarily to submit tagged information contained in the risk/return summary section of their prospectuses on EDGAR as exhibits to Form N-1A filings. The proposed expansion of the voluntary program would be open to any mutual fund choosing to participate. We estimate that 10% of the 545 fund complexes that have mutual funds, or 55 fund complexes, would each submit documents containing tagged risk/return summary information for one mutual fund.<sup>66</sup> This estimate is higher than the

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<sup>66</sup> In the case of a mutual fund with multiple series, our estimate treats each series as a separate mutual fund.

number of mutual funds participating in the current voluntary program. However, we believe that additional mutual funds will participate in the proposed expanded voluntary program.<sup>67</sup>

Submission of tagged risk/return summary information would not directly affect the burden of preparing the mutual funds' registration statements or the registrants' official EDGAR filings. In order to provide tagged risk/return summary information, a participating mutual fund would have to tag the risk/return summary section of its prospectus using the risk/return summary taxonomy and potentially develop taxonomy extensions and would submit an exhibit to its filing. Based on our previous estimates and our experience with registrants who have submitted tagged financial information in the current voluntary program, we estimate that the initial creation of tagged documents containing risk/return summary information would require, on average, approximately 110 burden hours per mutual fund,<sup>68</sup> and the creation of such tagged documents in

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<sup>67</sup> The ICI has stated that it will launch an educational effort to encourage mutual funds to use the risk/return summary taxonomy to tag the information in their EDGAR filings. ICI Details Project to Extend XBRL to Key Investor Information, Investment Company Institute Press Release, June 12, 2006, available at: [http://www.ici.org/statements/nr/06\\_news\\_xbrl.html#TopOfPage](http://www.ici.org/statements/nr/06_news_xbrl.html#TopOfPage).

<sup>68</sup> In the current voluntary program, we estimated that an initial set of submissions would require an average of 130 burden hours, 75% of which (or 97.5 hours) represents the internal burden hour estimate. See XBRL Adopting Release, *supra* note 13, at 70 FR 6563; XBRL Proposing Release, *supra* note 13, 69 FR at 59101. Based upon our experience with filers who have submitted tagged financial information in the current voluntary program, we believe that this burden estimate for submitting an initial set of submissions may have been too high. See, e.g., Indra K. Nooyi, Chief Executive Officer, PepsiCo, Inc., October 3 Roundtable Webcast, *supra* note 25 (initial submission in voluntary program required approximately 60 to 80 total labor hours); John Stantial, Director of Financial Reporting, United Technologies Corporation, June 12 Roundtable Transcript, *supra* note 25, at 160 (initial submission in voluntary program required about 80 hours of effort). We, therefore, estimate that the initial creation of tagged documents containing risk/return summary information would require, on average, approximately 110 burden hours per mutual fund, 75% of which (or 82.5 hours) represents the internal burden hour estimate. These estimates more closely approximate the experience of filers in the current voluntary program.

subsequent years would require an average 10 burden hours per mutual fund.<sup>69</sup> Because the PRA estimates represent the average burden over a three-year period, we estimate the average hour burden for the submission of tagged documents containing risk/return summary information for one mutual fund to be approximately 43 hours.<sup>70</sup>

Based on the estimates of 55 participants submitting tagged documents containing risk/return summary information for one mutual fund per year and incurring 43 hours per submission we estimate that, in the aggregate, the industry would incur an additional 2,365 burden hours associated with the proposed amendments.<sup>71</sup> We further estimate that 75% of this burden increase, or approximately 1,774 hours, would be borne internally by the mutual fund complex. We estimate that this internal burden increase converted to dollars would amount to approximately \$384,958.<sup>72</sup>

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<sup>69</sup> In the current voluntary program, we estimated that each set of submissions, after the initial set, would take 10 burden hours. See XBRL Adopting Release, supra note 13, at 70 FR 6563; XBRL Proposing Release, supra note 13, 69 FR at 59101. We continue to believe that this estimate is appropriate.

<sup>70</sup>  $(110 \text{ hours in the first year} + 10 \text{ hours in the second year} + 10 \text{ hours in the third year}) \div 3 \text{ years} = 43 \text{ hours}$ . While the PRA requires an estimate based on a hypothetical three years of participation, a registrant, as noted earlier, could participate in the expanded voluntary program by submitting tagged risk/return summary information over a shorter period or even just once as the registrant chooses.

<sup>71</sup>  $55 \text{ documents per year} \times 43 \text{ hours per submission} = 2,365 \text{ hours}$ .

<sup>72</sup> This cost increase is estimated by multiplying the increase in annual internal hour burden (1,774) by the estimated hourly wage rate of \$217.00. The estimated wage figure is based on published rates for compliance attorneys and programmer analysts outside New York City, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, yielding effective hourly rates of \$271 and \$199, respectively. See Securities Industry Association, Report on Management & Professional Earnings in the Securities Industry 2005 (Sept. 2005) (“SIA Report”). The estimated wage rate was further based on the estimate that compliance attorneys would account for one quarter of the hours worked and senior system analysts would account for the remaining three quarters, resulting in a weighted wage rate of \$217.00  $((\$271 \times .25) + (\$199 \times .75))$ .

We also estimate that 25% of the burden, or approximately 591 hours, would be outsourced to external professionals and consultants retained by the mutual fund complex at an average cost of \$266.25 per hour for a total annual increase of approximately \$157,354.<sup>73</sup> In addition, it is our understanding that many participants would also have annual software licensing costs. We estimate that the cost of licensing software would be \$333 per participant per year, for a total annual increase of \$18,315.<sup>74</sup> Altogether the total annual increase in external costs related to the proposed amendment would be \$175,669.<sup>75</sup>

Our cost estimates are intended to reflect both initial and ongoing costs over a three-year period. In calculating these costs, we have tried to take into account, among other things, the current state of reporting process automation, automation that likely

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<sup>73</sup> 591 hours x \$266.25 per hour = \$157,354. The estimated wage figure is based on published rates for attorneys and senior programmers outside New York City, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, yielding effective hourly rates of \$312 and \$251, respectively. See SIA Report, supra note 72. The estimated wage rate was further based on the estimate that attorneys would account for one quarter of the hours worked and senior programmers would account for the remaining three quarters, resulting in a weighted wage rate of \$266.25 (( $\$312 \times .25$ ) + ( $\$251 \times .75$ )).

<sup>74</sup> \$333 per participant x 55 participants = \$18,315. The estimated annual cost of the software comes from our previous voluntary program estimate PRA. See XBRL Adopting Release, supra note 13, at 70 FR 6563 and n. 113. That estimate was based on our discussions with software providers and others familiar with XBRL. We estimated that the cost of licensing software would range from \$200 to \$3,000 each year, with the majority of companies licensing less complex software in the \$200 to \$500 range. We set our software cost estimate at \$500, which is the highest cost for the simpler XBRL software license, and we assumed that the first year license fee would be waived (based upon our understanding that software providers indicated that they would provide these products for free in the initial stages of the voluntary program). Because the PRA estimates represent the average burden over a three-year period, we estimated the average burden for software license costs to be \$333 per year. Id.

<sup>75</sup> This annual total consists of \$157,354 in outside professional costs plus \$18,315 in software costs.

would be introduced in connection with the initial cost incurred, and the efficiencies that likely would be realized over the course of three years.

## **2. Regulation S-T**

Regulation S-T (OMB Control No. 3235-0424) specifies the requirements that govern the electronic submission of documents. The proposed amendments would revise rules under Regulation S-T, but the associated increase in burden is reflected in the “Voluntary XBRL-Related Documents” collection of information as described above.

### **B. Request for Comments**

We request comment to evaluate the accuracy of our estimates pursuant to 44 U.S.C. 3506(c)(2)(B) and solicit comments with regard to:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Whether our estimate of the burden of the proposed collection of information is accurate;
- Whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and
- Whether there are ways to minimize the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Any member of the public may direct to the Commission any comments concerning the accuracy of these cost and burden estimates and any suggestions for reducing them. Persons who desire to submit comments on the collection of information

requirements should direct their comments to the OMB, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy of the comments to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549, with reference to File No. S7-05-07. Requests for materials submitted to OMB by the Commission with regard to this collection of information should be in writing, refer to File No. S7-05-07, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 100 F Street, NE, Washington, DC 20549. Because OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication, your comments are best assured of having their full effect if OMB receives them within 30 days of publication.

## **V. COST/BENEFIT ANALYSIS**

The Commission is sensitive to the costs and benefits imposed by its rules. The goal of the voluntary program is to increase EDGAR's efficiency and utility and to enhance the usefulness to investors of the information collected through EDGAR. In order to evaluate data tagging further, we have proposed amendments to extend the current interactive data voluntary reporting program to enable mutual funds voluntarily to submit tagged information contained in the risk/return summary section of their prospectuses on EDGAR as exhibits to Form N-1A filings.

### **A. Benefits**

We believe that tagged information may allow more efficient and effective retrieval, research, and analysis of company information through automated means. The proposed expansion of the voluntary program would assist us in assessing whether using

interactive data tags enhances users' ability to analyze and compare mutual fund risk/return summary information included in mutual funds' filings with the Commission. The proposed expansion of the voluntary program to include narrative, non-financial information, such as that contained in the risk/return summary, also would facilitate our ability to assess further the technical requirements of processing tagged documents using EDGAR.

Currently, a number of companies use computers and data entry staff to mine risk/return summary information provided by mutual funds on EDGAR in order to populate databases that are used to package information for sale to analysts, funds, investors, and others. Permitting funds to tag risk/return summary information in Commission filings would aid this data-mining process in that it would identify points of data at the source, which could reduce the cost to populate databases and improve the accuracy of that data. Additionally, the expanded voluntary program may benefit funds and the public by permitting experimentation with data tagged using the risk/return summary taxonomy.

In the future, the availability of potentially more accurate tagged information about mutual funds could also reduce the cost of research and analysis and create new opportunities for companies that compile, provide, and analyze data to produce more value added services. Enhanced access to tagged information also has the potential to allow retail investors (or financial advisers assisting such investors) to perform more personalized and sophisticated analyses and comparisons of mutual funds, which could result in investors making better informed investment decisions, and therefore in a more efficient distribution of assets by investors among different funds. This may, in turn, also

contribute to increased competition among mutual funds and result in a more efficient allocation of resources among competing investment products. Although it is not possible to quantify precisely the beneficial effects of more efficient allocation of investors' assets and increased competition, they may be significant, given the size of the mutual fund industry.

## **B. Costs**

The proposed expansion of the voluntary program would lead to some additional costs for funds choosing to submit tagged documents containing risk/return summary information as exhibits to their Form N-1A filings. For purposes of the PRA, we estimated that the increase in annual internal burden hours to the industry would be 1,774 hours, which would amount to approximately \$384,958 and that the increase in annual external costs would amount to approximately \$175,669 for a total estimated increase of \$560,627 on an annual basis.<sup>76</sup>

We based these cost estimates upon, among other things, experience with filers who have submitted tagged financial information in the current voluntary program.<sup>77</sup> Due to the ongoing nature of the project to develop the risk/return summary taxonomy, however, we have limited data to quantify the cost of implementing the use of interactive data tags applied to risk/return summary information, and we seek comments and supporting data on our estimates with regard to the proposed amendments. In the future, there may be additional costs to current users of EDGAR data. For example, companies that currently provide tagging and dissemination of EDGAR data may experience

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<sup>76</sup> See supra Section IV.A.1.

<sup>77</sup> See supra note 68.

decreased demand for their services. These entities have developed certain products and services based on data in EDGAR; many entities disseminate, repackage, analyze, and sell the information. Allowing mutual funds to submit tagged risk/return summary information, even voluntarily, may have an impact on entities providing EDGAR-based services and products. Because the Commission does not regulate all these entities, it is currently not feasible to accurately estimate the number or size of these potentially affected entities. The limited, voluntary nature of the program will help the Commission assess the effect, if any, on these entities. Additionally, the availability of mutual fund tagged data on EDGAR may provide these companies with alternative business opportunities.

### **C. Request for Comments**

We request comment on all aspects of this cost-benefit analysis, including identification of any additional costs or benefits of, or suggested alternatives to, the proposed rule and form amendments. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

## **VI. PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION**

Section 2(c) of the Investment Company Act<sup>78</sup> and section 2(b) of the Securities Act<sup>79</sup> require the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

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<sup>78</sup> 15 U.S.C. 80a-2(c).

<sup>79</sup> 15 U.S.C. 77(b).

The proposed amendments would extend the current interactive data voluntary reporting program to enable mutual funds voluntarily to submit tagged information contained in the risk/return summary section of their prospectuses on EDGAR as exhibits to Form N-1A filings. The expansion of the voluntary program is intended to help us evaluate the usefulness to investors, third-party analysts, mutual funds, the Commission, and the marketplace of data tagging and, in particular, of tagging mutual fund information. Because compliance with the proposed amendments would be voluntary, the Commission estimates that the impact of the proposal would be limited. However, because the tagging of risk/return summary information has the potential to facilitate analysis of that information, we believe that the proposed amendments could promote efficiency by allowing us and others to gain experience with tagged mutual fund information in Commission filings.

Further, tagging of the risk/return summary information has the potential to help streamline the delivery of mutual fund information, and provide investors and others with improved tools to compare funds based upon, among other things, costs, investment objectives, strategies, and risks. We believe that the potential to streamline the delivery of mutual fund information and to provide investors and others with improved mutual fund comparison tools could promote efficiency and competition through more efficient allocation of investments by investors and more efficient allocation of assets among competing funds. In the future, companies that currently provide tagging and dissemination of EDGAR data may experience decreased demand for their services. The availability of mutual fund tagged data on EDGAR, however, may provide these companies with alternative business opportunities. We do not anticipate that the

proposed amendments would have a significant impact on capital formation. Finally, because the proposals are designed to permit mutual funds to provide information in a format that we believe would be more useful to investors, we believe that the proposed amendments are appropriate in the public interest and for the protection of investors.

We request comment on whether the proposed amendments, if adopted, would promote efficiency, competition, and capital formation. Commenters are requested to provide empirical data and other factual support for their views if possible.

## **VII. INITIAL REGULATORY FLEXIBILITY ANALYSIS**

We prepared this Initial Regulatory Flexibility Analysis (“IRFA”) in accordance with the Regulatory Flexibility Act.<sup>80</sup> The proposed amendments would extend the current interactive data voluntary reporting program to enable mutual funds voluntarily to submit tagged information contained in the risk/return summary section of their prospectuses on EDGAR as exhibits to Form N-1A filings.

### **A. Reasons for, and Objectives of, the Proposals**

The purpose of the proposed amendments is to help us evaluate the usefulness to investors, third-party analysts, mutual funds, the Commission, and the marketplace of data tagging and, in particular, of tagging mutual fund information. We believe the proposed expanded voluntary program would enable us to further study the extent to which interactive data tags enhance the comparability of that data, the usefulness of data tags for dissemination, and our staff’s ability to review and assess the accuracy and adequacy of that data. The proposed expanded voluntary program would also help us assess the effect of interactive data tags on the quality and transparency of risk/return

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<sup>80</sup> 5 U.S.C. 603 et seq.

summary information, as well as the compatibility of data tagging with the Commission's disclosure requirements.

More specifically, we believe that the proposed expanded voluntary program would better enable us to study the extent to which interactive data enhances the:

- search capability of the EDGAR database to allow more efficient and effective extraction and analysis of specific data,
- capability to perform comparisons among mutual funds, and
- ability to perform analyses of mutual fund data and whether it would reduce the resources needed for data analysis.

In addition, we believe the proposed expanded voluntary program would enhance our ability to evaluate the:

- impact on the staff's ability to review filings on a more timely and efficient basis,
- use of tagged data for risk assessment and surveillance procedures, and
- compatibility of interactive data with reporting quality, transparency, and other Commission reporting requirements.

## **B. Legal Basis**

We are proposing rule and form amendments under the authority set forth in Sections 5, 6, 7, 10, 19(a), and 28 of the Securities Act and Sections 6(c), 8, 24(a), 30, and 38 of the Investment Company Act.

## **C. Small Entities Subject to the Proposed Rules**

The proposed expansion of the voluntary program may have an effect on mutual fund participants in the voluntary program. Under Rule 0-10 under the Investment Company Act, an investment company is a small entity if it, together with other

investment companies in the same group of related investment companies, has net assets of \$50 million or less as of the end of its most recent fiscal year.<sup>81</sup> We estimate that there are approximately 131 mutual funds that meet this definition. A smaller subset of those issuers may voluntarily submit tagged risk/return summary information under the voluntary program, but, because submitting risk/return summary information would be voluntary, we anticipate that only complexes with sufficient resources would elect to participate. To date, no small entity mutual funds have elected to participate in the current voluntary program.

#### **D. Reporting, Recordkeeping, and Other Compliance Requirements**

The voluntary program is designed to assist us in assessing the feasibility of using interactive data on a broader basis. Experience with the current voluntary program indicates that the cost of participating in the expanded program, the associated burden on the EDGAR system, and the possible effect of the expanded voluntary program on those entities that use the EDGAR data would be minimal. Nevertheless, the impact of the proposed amendments remains somewhat speculative at this point.

No registrant would be required to submit tagged documents under the proposed extension to the voluntary program. The submission of tagged risk/return summary information would require a participating mutual fund to tag the risk/return summary section of its prospectus using the risk/return summary taxonomy and potentially develop extensions and to submit exhibits to its filing. Volunteers may also need to purchase software or retain a consultant to assist in tagging data. For purposes of the PRA, we

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<sup>81</sup> 17 CFR 270.0-10.

estimated that each volunteer, including small entities, would incur approximately 43 burden hours and \$333 in software costs annually.

**E. Duplicative, Overlapping, or Conflicting Federal Rules**

We believe that there are no rules that duplicate, overlap, or conflict with the proposals.

**F. Agency Action to Minimize the Effect on Small Entities**

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entities. The purpose of the proposed amendments is to help us evaluate the usefulness to investors, third-party analysts, mutual funds, the Commission, and the marketplace of data tagging and, in particular, of tagging mutual fund information. Submitting documents containing tagged risk/return summary information would be entirely voluntary. We have considered different or simpler procedures for small entities, including:

- The establishment of different compliance or reporting requirements or timetables;
- The clarification, consolidation, or simplification of the proposed requirements;
- The use of performance rather than design standards; and
- Exemption from coverage.

For tagged data to provide benefits such as ready comparability, however, the data tagging system cannot have alternative procedures. Similarly, in order to achieve the benefits of interactive data tagging, use of a single data tagging technology is necessary. If we determine to require data tagging in the future, we will look to the results of the

voluntary program, including those of the proposed expansion of the program to risk/return summary information, to find alternatives to minimize any burden on small entities. We solicit comment on how the proposals could be modified to minimize the effect on small entities.

### **G. Request for Comments**

We encourage the submission of comments with respect to any aspect of this Initial Regulatory Flexibility Analysis. In particular, we request comment on the number of small entities that would be affected by the proposals; the existence or nature of the potential effect of the proposals on small entities as discussed in the analysis; how to quantify the effect of the proposal; and how different procedures, if necessary, could be provided for small entities while remaining consistent with our goal to assess tagged data. We ask commenters to describe the nature of any effect and provide empirical data and other factual support for their views, if possible. These comments will be considered in preparing the Final Regulatory Flexibility Analysis, if the proposals are adopted, and will be placed in the same public file as comments on the proposal.

## **VIII. CONSIDERATION OF IMPACT ON THE ECONOMY**

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996,<sup>82</sup> a rule is “major” if it results or is likely to result in:

- an annual effect on the economy of \$100 million or more;
- a major increase in costs or prices for consumers or individual industries; or
- significant adverse effects on competition, investment, or innovation.

The Commission requests comment on the potential impact of the proposed

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<sup>82</sup> Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

amendments on the U.S. economy on an annual basis. Commenters are requested to provide empirical data to support their views.

## **IX. STATUTORY AUTHORITY**

The Commission is proposing the rule amendments outlined above under Sections 5, 6, 7, 10, 19(a), and 28 of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, 77s(a), and 77z-3] and Sections 6(c), 8, 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a-6(c), 80a-8, 80a-24(a), 80a-29, and 80a-37].

### **List of Subjects in 17 CFR Parts 232 and 239**

Reporting and recordkeeping requirements, Securities.

### **List of Subjects in 17 CFR Parts 270 and 274**

Investment Companies, Reporting and recordkeeping requirements, Securities.

## **TEXT OF PROPOSED RULE AND FORM AMENDMENTS**

For the reasons set forth above, the Commission proposes to amend title 17, Chapter II of the Code of Federal Regulations as follows:

### **PART 232 – REGULATION S-T – GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS**

1. The general authority citation for Part 232 is revised to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77z-3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a-6(c), 80a-8, 80a-29, 80a-30, 80a-37, and 7201 et seq.; and 18 U.S.C. 1350.

\* \* \* \* \*

2. Amend § 232.401 by:
  - a. Revising the first sentence of paragraph (a);
  - b. Removing the word “or” at the end of paragraph (b)(1)(ii);

- c. Removing the period at the end of paragraph (b)(1)(iii) and adding in its place “; or”;
- d. Adding new paragraph (b)(1)(iv);
- e. Revising paragraph (d)(1)(i); and
- f. Removing the term “or 20-F” and in its place adding “, 20-F or N-1A (§§ 239.15A and 274.11A of this chapter)” in paragraph (d)(2)(i).

The addition and revisions read as follows:

**§ 232.401 XBRL-Related Document Submissions.**

(a) An electronic filer that participates in the voluntary XBRL (eXtensible Business Reporting Language) program may submit XBRL-Related Documents (§232.11) in electronic format as an exhibit to: (1) the filing (other than a Form N-1A filing) to which the XBRL-Related Documents relate; (2) an amendment to such filing, but, in the case of a Form N-1A filing, an amendment made only after the effective date of the Form N-1A filing to which the XBRL-Related Documents relate; or (3) if the electronic filer is eligible to file a Form 8-K (§249.308 of this chapter) or a Form 6-K (§249.306 of this chapter), a Form 8-K or a Form 6-K, as applicable, that references the filing to which the XBRL-Related Documents relate if such Form 8-K or Form 6-K is submitted no earlier than the date of that filing. \* \* \*

(b) \* \* \*

(1) \* \* \*

(iv) The risk/return summary information set forth in Items 2 and 3 of Form N-1A (§ 239.15A and § 274.11A of this chapter).

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) That the financial information contained in the XBRL-Related Documents is “unaudited” or “unreviewed,” as applicable (but only if the mandatory content contained in the XBRL-Related Documents contains information other than risk/return summary information submitted under paragraph (b)(1)(iv) of this section);

\* \* \* \* \*

3. Amend § 232.402(a)(1) to read as follows:

**§ 232.402 Liability for XBRL-Related Documents.**

(a) \* \* \*

(1) Are not deemed filed for purposes of section 11 of the Securities Act (15 U.S.C 77k), section 18 of the Exchange Act (15 U.S.C. 78r), or section 34(b) of the Investment Company Act (15 U.S.C. 80a-33(b)), or otherwise subject to the liabilities of these sections, and are not part of any registration statement to which they relate;

\* \* \* \* \*

4. Amend § 232.402(b) by replacing each reference to “Item 401” with “Rule 401”.

**PART 239 – FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933**

5. The general authority citation for Part 239 is revised to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 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, unless otherwise noted.

\* \* \* \* \*

**PART 270 – GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940**

6. 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, and 80a-39, unless otherwise noted.

\* \* \* \* \*

7. Amend § 270.8b-33 to read as follows:

**§ 270.8b-33 XBRL-Related Documents.**

A registrant that participates in the voluntary XBRL (eXtensible Business Reporting Language) program may submit, in electronic format as an exhibit to a filing on Form N-1A (§§ 239.15A and 274.11A of this chapter), Form N-CSR (§§ 249.331 and 274.128 of this chapter), or Form N-Q (§§ 249.332 and 274.130 of this chapter) to which they relate, XBRL-Related Documents (§ 232.11 of this chapter). A registrant that submits XBRL-Related Documents as an exhibit to a form must name each XBRL-Related Document “EX 100” as specified in the EDGAR Filer Manual and submit the XBRL-Related Documents in such a manner that will permit the information for each series and class of an investment company registrant and each contract of an insurance company separate account to be separately identified. A registrant may submit such exhibit with, or in an amendment to, the Form N-CSR or Form N-Q filing to which it relates, or in an amendment to the Form N-1A filing to which it relates, in accordance with rule 401 of Regulation S-T (§232.401).

**PART 274 – FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940**

8. 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, and 80a-29, unless otherwise noted.

\* \* \* \* \*

9. Amend General Instruction B.4.(b) of Form N-1A (referenced in §§ 239.15A and 274.11A) by replacing “8b-32 [17 CFR 270.8b-1 – 270.8b-32]” with “8b-33 [17 CFR 270.8b-1 – 270.8b-33]”.

**Note:** The text of Form N-1A will not appear in the Code of Federal Regulations.

By the Commission.

Nancy M. Morris  
Secretary

February 6, 2007