annual consideration of whether to continue the plan.[3] We therefore estimate that the total hourly burden per year for all funds to comply with current information collection requirements under rule 12b–1, is 159,375 hours (375 fund families × 425 hours per fund family = 159,375 hours).

If a currently operating fund seeks to (i) adopt a new rule 12b–1 plan or (ii) materially increase the amount it spends for distribution under its rule 12b–1 plan, rule 12b–1 requires that the fund obtain shareholder approval. As a consequence, the fund will incur the cost of a proxy.[4] Based on previous conversations with fund representatives, Commission staff estimates that approximately three funds per year prepare a proxy in connection with the adoption or material amendment of a rule 12b–1 plan. Funds typically hire outside legal counsel and proxy solicitation firms to prepare, print, and mail such proxies. The staff further estimates that the cost of each fund's proxy is $32,174. Thus the total annual cost burden of rule 12b–1 to the fund industry is $96,522 (3 funds requiring a proxy × $32,174 per proxy).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

The collections of information required by rule 12b–1 are necessary to obtain the benefits of the rule. Notices to the Commission will not be kept confidential. 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 public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 20, 2012.

Elizabeth M. Murphy,

Secretary.

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[3] We do not estimate any costs or time burden related to the recordkeeping requirements in rule 12b–1, as funds are either required to maintain these records pursuant to other rules or would keep these records in any case as a matter of business practice.

[4] In general, a fund adopts a rule 12b–1 plan before it begins operations. Therefore, the fund is not required to obtain the approval of its public shareholders because the fund's shares have not yet been offered to the public.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC. 20549–0213.

Extension:

Rule 204; SEC File No. 270–586; OMB Control No. 3235–0647.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 204 (17 CFR 242.204) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 204 requires that, subject to certain limited exceptions, if a participant of a registered clearing agency has a fail to deliver position at a registered clearing agency it must immediately close out the fail to deliver position by purchasing or borrowing securities by no later than the beginning of regular trading hours on the settlement day following the day the participant incurred the fail to deliver position. Rule 204 is intended to help further the Commission's goal of reducing fails to deliver by maintaining the reductions in fails to deliver achieved by the adoption of temporary Rule 204T, as well as other actions taken by the Commission. In addition, Rule 204 is intended to help further the Commission's goal of addressing potentially abusive ''naked'' short selling in all equity securities.

The information collected under Rule 204 will continue to be retained and/or provided to other entities pursuant to the specific rule provisions and will be available to the Commission and self-regulatory organization (''SRO'') examiners upon request. The information collected will continue to aid the Commission and SROs in monitoring compliance with these requirements. In addition, the information collected will aid those subject to Rule 204 in complying with its requirements. These collections of information are mandatory.

Several provisions under Rule 204 will impose a ''collection of information'' within the meaning of the Paperwork Reduction Act.

I. Allocation Notification Requirement: As of December 31, 2011, there were 4,695 registered broker-dealers. Each of these broker-dealers could clear trades through a participant of a registered clearing agency and, therefore, become subject to the notification requirements of Rule 204(d). If a broker-dealer has been allocated a portion of a fail to deliver position in an equity security and after the beginning of regular trading hours on the applicable close-out date, the broker-dealer has to determine whether or not that portion of the fail to deliver position was not closed out in accordance with Rule 204(a), we estimate that a broker-dealer will have to make such determination with respect to approximately 2.09 equity securities per day.[1] We estimate a total of 2,472,762 notifications in accordance with Rule 204(d) across all broker-dealers (that were allocated responsibility to close out a fail to deliver position) per year (4,695 broker-dealers notifying participants once per day [2] on 2.09 securities, multiplied by 252 trading days in a year). The total estimated annual burden hours per year will be approximately 395,642 burden

[1] As stated in the adopting release for Interim Final Temporary Rule 204T, the Commission's Office of Economic Analysis (''OEA'') estimates that there are approximately 9,809 fail to deliver positions per settlement day. Across 4,695 broker-dealers, the number of securities per broker-dealer per day is approximately 2.09 equity securities. During the period from January to July 2008, approximately 4,321 new fail to deliver positions occurred per day. The National Securities Clearing Corporation (''NSCC'') data for this period includes only securities with at least 10,000 shares in fails to deliver. To account for securities with fails to deliver below 10,000 shares, the figure is multiplied by a factor of 2.27. The factor is estimated from a more complete data set obtained from NSCC during the period from September 16, 2008 to September 22, 2008. It should be noted that these numbers include securities that were not subject to the close-out requirement of Rule 203(b)(3) of Regulation SHO. Exchange Act Release No. 58733 (Oct. 14, 2008), 73 FR 61706, 61718 n.107 (Oct. 17, 2008) (''Rule 204T Adopting Release'').

[2] Because failure to comply with the close-out requirements of Rule 204(a) is a violation of the rule, we believe that a broker-dealer would make the notification to a participant that it is subject to the borrowing requirements of Rule 204(b) at most once per day.

hours (2,472,762 multiplied by 0.16 hours/notification).

II. Demonstration Requirement for Fails to Deliver on Long Sales: As of January 31, 2012, there were 191 participants of NSCC, the primary registered clearing agency responsible for clearing U.S. transactions that were registered as broker-dealers.[3] If a participant of a registered clearing agency has a fail to deliver position in an equity security at a registered clearing agency and determines that such fail to deliver position resulted from a long sale, we estimate that a participant of a registered clearing agency will have to make such determination with respect to approximately 35 securities per day.[4] We estimate a total of 1,684,620 demonstrations in accordance with Rule 204(a)(1) across all participants per year (191 participants checking for compliance once per day on 35 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 269,540 burden hours (1,684,620 multiplied by 0.16 hours/documentation).

III. Pre-Borrow Notification Requirement: As of January 31, 2012, there were 191 participants of NSCC, the primary registered clearing agency responsible for clearing U.S. transactions that were registered as broker-dealers.[5] If a participant of a registered clearing agency has a fail to deliver position in an equity security and after the beginning of regular trading hours on the applicable close-out date, the participant has to determine whether or not the fail to deliver position was closed out in accordance with Rule 204(a), we estimate that a participant of a registered clearing agency will have to make such determination with respect to approximately 51 equity securities per day.[6] We estimate a total of 2,454,732 notifications in accordance with Rule 204(c) across all participants per year (191 participants notifying broker-dealers once per day on 51 securities, multiplied by 252 trading days in a year). The total estimated annual burden hours per year will be approximately 392,758 burden hours (2,454,732 @ 0.16 hours/documentation).

IV. Certification Requirement: If the broker-dealer determines that it has not incurred a fail to deliver position on settlement date in an equity security for which the participant has a fail to deliver position at a registered clearing agency or has purchased securities in accordance with the conditions specified in Rule 204(e), we estimate that a broker-dealer will have to make such determinations with respect to approximately 2.09 securities per day. As of December 31, 2011, there were 4,695 registered broker-dealers. Each of these broker-dealers may clear trades through a participant of a registered clearing agency. We estimate that on average, a broker-dealer will have to certify to the participant that it has not incurred a fail to deliver position on settlement date in an equity security for which the participant has a fail to deliver position at a registered clearing agency or, alternatively, that it is in compliance with the requirements set forth in Rule 204(e), 2,472,762 times per year (4,695 broker-dealers certifying once per day on 2.09 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 395,642 burden hours (2,472,762 multiplied by 0.16 hours/certification).

V. Pre-Fail Credit Demonstration Requirement: If a broker-dealer purchases or borrows securities in accordance with the conditions specified in Rule 204(e) and determines that it has a net long position or net flat position on the settlement day on which the broker-dealer purchases or borrows securities we estimate that a broker-dealer will have to make such determination with respect to approximately 2.09 securities per day.[7] As of December 31, 2011, there were 4,695 registered broker-dealers. We estimate that on average, a broker-dealer will have to demonstrate in its books and records that it has a net long position or net flat position on the settlement day for which the broker-dealer is claiming credit, 2,472,762 times per year (4,695 broker-dealers checking for compliance once per day on 2.09 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 395,642 burden hours (2,472,762 multiplied by 0.16 hours/demonstration).

The total aggregate annual burden for the collection of information undertaken pursuant to all five provisions is thus 1,849,224 hours per year (395,642 + 269,540 + 392,758 + 395,642 + 395,642).

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

Background documentation for this information collection may be viewed at the following Web site: *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: August 20, 2012.

Elizabeth M. Murphy,

Secretary.

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[3] Those participants not registered as broker-dealers include such entities as banks, U.S.-registered exchanges, and clearing agencies. Although these entities are participants of a registered clearing agency, generally these entities do not engage in the types of activities that will implicate the close-out requirements of the rule. Such activities of these entities include creating and redeeming Exchange Traded Funds, trading in municipal securities, and using NSCC's Envelope Settlement Service or Inter-city Envelope Settlement Service. These activities rarely lead to fails to deliver and, if fails to deliver do occur, they are small in number and are usually closed out within a day.

[4] OEA estimates approximately 68% of trades are long sales and applies this percentage to the number of fail to deliver positions per day. OEA estimates that there are approximately 9,809 fail to deliver positions per settlement day. Across 191 broker-dealer participants of the NSCC, the number of securities per participant per day is approximately 51 equity securities. 68% of 51 securities per day is approximately 35 securities per day. The 68% figure is estimated as 100% minus the proportion of short sale trades found in the Regulation SHO Pilot Study. *See http://www.sec.gov/news/studies/2007/regshopilot020607.pdf.*

[5] *See supra* note 3.

[6] OEA estimates that there are approximately 9,809 fail to deliver positions per day. Across 191 broker-dealer participants of the NSCC, the number of securities per participant per day is approximately 51 equity securities. During the period from January to July 2008, approximately 4,321 new fail to deliver positions occurred per day. The NSCC data for this period includes only securities with at least 10,000 shares in fails to deliver. To account for securities with fails to deliver below 10,000 shares, the figure is grossed-up by a factor of 2.27. The factor is estimated from a more complete data set obtained from NSCC during the period from September 16, 2008 to September 22, 2008. It should be noted that these numbers include securities that were not subject to the close-out requirement of Rule 203(b)(3) of Regulation SHO.

[7] *See supra* note 1.