

Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov.

Dated: November 14, 2022.

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–793, OMB Control No. 3235–0734]

Submission for OMB Review; Comment Request; Extension: Rule 22c–1

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of FOIA Services
100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the “Commission”) has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 22c–1 (17 CFR 270.22c–1) under the Investment Company Act of 1940 (15 U.S.C. 80a) (the “Investment Company Act” or “Act”) enables a fund to choose to use “swing pricing” as a tool to mitigate shareholder dilution. Rule 22c–1 is intended to promote investor protection by providing funds with an additional tool to mitigate the potentially dilutive effects of shareholder purchase or redemption activity and a set of operational standards that allow funds to gain comfort using swing pricing as a means of mitigating potential dilution.

The respondents to amended rule 22c–1 are open-end management investment companies (other than money market funds or exchange-traded funds) that engage in swing pricing. Compliance with rule 22c–1(a)(3) is mandatory for any fund that chooses to use swing pricing to adjust its NAV in reliance on the rule.

While we are not aware of any funds that have engaged in swing pricing,¹ we are estimating for the purpose of this analysis that 5 fund complexes have funds that may adopt swing pricing policies and procedures in the future pursuant to the rule. We estimate that

the total burden associated with the preparation and approval of swing pricing policies and procedures by those fund complexes that would use swing pricing will be 280 hours.² We also estimate that it will cost a fund complex \$48,188 to document, review and initially approve these policies and procedures, for a total cost of \$240,940.³

Rule 22c–1 requires a fund that uses swing pricing to maintain the fund’s swing policies and procedures that are in effect, or at any time within the past six years were in effect, in an easily accessible place.⁴ The rule also requires a fund to retain a written copy of the periodic report provided to the board prepared by the swing pricing administrator that describes, among other things, the swing pricing administrator’s review of the adequacy of the fund’s swing pricing policies and procedures and the effectiveness of their implementation, including the impact on mitigating dilution and any back-testing performed.⁵ The retention of these records is necessary to allow the staff during examinations of funds to determine whether a fund is in compliance with its swing pricing policies and procedures and with rule 22c–1. We estimate a time cost per fund complex of \$344.⁶ We estimate that the total for recordkeeping related to swing pricing will be 20 hours, at an aggregate cost of \$1,720, for all fund complexes that we believe include funds that have adopted swing pricing policies and procedures.⁷

² This estimate is based on the following calculation: (48 + 2 + 6) hours × 5 fund complexes = 280 hours.

³ These estimates are based on the following calculations: 24 hours × \$237 (hourly rate for a senior accountant) = \$5,688; 24 hours × \$545 (blended hourly rate for assistant general counsel (\$510) and chief compliance officer (\$580)) = \$13,080; 2 hours (for a fund attorney’s time to prepare materials for the board’s determinations) × \$400 (hourly rate for a compliance attorney) = \$800; 6 hours × \$4,770 (hourly rate for a board of 9 directors) = \$28,620; (\$5,688 + \$13,080 + \$800 + \$28,620) = \$48,188; \$48,188 × 5 fund complexes = \$240,940. The hourly wages used are from SIFMA’s Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. The staff has estimated the average cost of board of director time as \$4,770 per hour for the board as a whole, based on information received from funds and their counsel.

⁴ See rule 22c–1(a)(3)(iii).

⁵ See *id.*

⁶ This estimate is based on the following calculations: 2 hours × \$68 (hourly rate for a general clerk) = \$136; 2 hours × \$104 (hourly rate for a senior computer operator) = \$208. \$136 + \$208 = \$344.

⁷ These estimates are based on the following calculations: 4 hours × 5 fund complexes = 20 hours. 5 fund complexes × \$344 = \$1,720.

Amortized over a three-year period, we believe that the hour burdens and time costs associated with rule 22c–1, including the burden associated with the requirements that funds adopt policies and procedures, obtain board approval, and periodic review of an annual written report from the swing pricing administrator, and retain certain records and written reports related to swing pricing, will result in an average aggregate annual burden of 113.3 hours, and average aggregate time costs of \$82,033.⁸ We also estimate that rule 22c–1 imposes a total external cost burden of \$2,655 for outside legal services related to compliance with the policies and procedures requirement.⁹

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

This collection of information is necessary to obtain a benefit and 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 OMB control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by December 19, 2022 to (i) MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov.

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⁸ These estimates are based on the following calculations: (280 hours (year 1) + (3 × 20 hours) (years 1, 2 and 3)) ÷ 3 = 113.3 hours; (\$240,940 (year 1) + (3 × \$1,720) (years 1, 2 and 3)) ÷ 3 = \$82,033.

⁹ This estimated burden is based on the estimated wage rate of \$531 per hour for outside legal services and the following calculation: \$531 × 5 fund complexes = \$2,655.

¹ No funds have engaged in swing pricing as reported on Form N–CEN as of August 15, 2022.