

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. E9-24417 Filed 10-8-09; 8:45 am]

**BILLING CODE 8025-01-P**

## SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11868 and #11869]

### New York Disaster #NY-00079

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 2.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of New York (FEMA-1857-DR), dated 09/01/2009.

*Incident:* Severe Storms and Flooding.

*Incident Period:* 08/08/2009 through 08/10/2009.

**DATES:** *Effective Date:* 09/29/2009.

*Physical Loan Application Deadline Date:* 11/02/2009.

*Economic Injury (EIDL) Loan Application Deadline Date:* 06/01/2010.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of New York, dated 09/01/2009, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Allegany.

All other information in the original declaration remains unchanged.

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**James E. Rivera,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. E9-24418 Filed 10-8-09; 8:45 am]

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## 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: Form N-6, SEC File No. 270-446, OMB Control No. 3235-0503.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), 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.

The title for the collection of information is "Form N-6 (17 CFR 239.17c and 274.11d) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) registration statement of separate accounts organized as unit investment trusts that offer variable life insurance policies." Form N-6 is the form used by insurance company separate accounts organized as unit investment trusts that offer variable life insurance contracts to register as investment companies under the Investment Company Act of 1940 and/or to register their securities under the Securities Act of 1933. The primary purpose of the registration process is to provide disclosure of financial and other information to investors and potential investors for the purpose of evaluating an investment in a security. Form N-6 also permits separate accounts organized as unit investment trusts that offer variable life insurance contracts to provide investors with a prospectus containing information required in a registration statement prior to the sale or at the time of confirmation of delivery of securities.

The Commission estimates that there are approximately 250 separate accounts registered as unit investment trusts and offering variable life insurance policies that file registration statements on Form N-6. The Commission estimates that there are 95 initial registration statements on Form N-6 filed annually. The Commission estimates that approximately 813 registration statements (718 post-effective amendments plus 95 initial registration statements) are filed on Form N-6 annually. The Commission estimates that the hour burden for preparing and filing a post-effective amendment on Form N-6 is 67.5 hours. The total annual hour burden for preparing and filing post-effective amendments is 48,465 hours (718 post-effective amendments annually times 67.5 hours per amendment). The estimated hour burden per portfolio for preparing and filing an initial registration statement on

Form N-6 is 770.25 hours. The estimated annual hour burden for preparing and filing initial registration statements is 73,174 hours (95 initial registration statements annually times 770.25 hours per portfolio for each registration statement). The frequency of response is annual. The total annual hour burden for Form N-6, therefore, is estimated to be 121,639 hours (48,465 hours for post-effective amendments plus 73,174 hours for initial registration statements).

The information collection requirements imposed by Form N-6 are mandatory. Responses to the collection of information 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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: October 5, 2009.

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. E9-24357 Filed 10-8-09; 8:45 am]

**BILLING CODE 8011-01-P**

## 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; OMB Control No. 3235-0647; SEC File No. 270-586.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for 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, 2007, there were 5,561 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 1.76 equity securities per day.<sup>1</sup> We estimate a total

of 2,466,415 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 (5,561 broker-dealers notifying participants once per day<sup>2</sup> on 1.76 securities, multiplied by 252 trading days in a year). The total estimated annual burden hours per year will be approximately 394,626 burden hours (2,466,415 multiplied by 0.16 hours/notification).

II. **Demonstration Requirement for Fails to Deliver on Long Sales:** As of July 31, 2008, there were 197 participants of NSCC, the primary registered clearing agency responsible for clearing U.S. transactions that were registered as broker-dealers.<sup>3</sup> 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 34 securities per day.<sup>4</sup>

positions per settlement day. Across 5,561 broker-dealers, the number of securities per broker-dealer per day is approximately 1.76 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").

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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 197 broker-dealer participants of the NSCC, the number of securities per participant per day is approximately 50 equity securities. 68% of 50 securities per day is 34 securities per day. The 68%

We estimate a total of 1,687,896 demonstrations in accordance with Rule 204(a)(1) across all participants per year (197 participants checking for compliance once per day on 34 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 270,063 burden hours (1,687,896 multiplied by 0.16 hours/documentation).

III. **Pre-Borrow Notification Requirement:** As of July 31, 2008, there were 197 participants of NSCC, the primary registered clearing agency responsible for clearing U.S. transactions that were registered as broker-dealers.<sup>5</sup> 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 50 equity securities per day.<sup>6</sup> We estimate a total of 2,482,200 notifications in accordance with Rule 204(c) across all participants per year (197 participants notifying broker-dealers once per day on 50 securities, multiplied by 252 trading days in a year). The total estimated annual burden hours per year will be approximately 397,152 burden hours (2,482,200 @ 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

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>.

<sup>5</sup> See *supra* note 3.

<sup>6</sup> OEA estimates that there are approximately 9,809 fail to deliver positions per day. Across 197 broker-dealer participants of the NSCC, the number of securities per participant per day is approximately 50 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.

<sup>1</sup> 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

specified in Rule 204(e), we estimate that a broker-dealer will have to make such determinations with respect to approximately 1.76 securities per day. As of December 31, 2007, there were 5,561 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), 2,466,415 times per year (5,561 broker-dealers certifying once per day on 1.76 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 394,626 burden hours (2,466,415 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 1.76 securities per day.<sup>7</sup> As of December 31, 2007, there were 5,561 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, 2,466,415 times per year (5,561 broker-dealers checking for compliance once per day on 1.76 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 394,626 burden hours (2,466,415 multiplied by 0.16 hours/demonstration).

Please note that 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. We submitted the collection of information to OMB for review and approval in accordance with 44 U.S.C. 3507(j) and 5 CFR 1320.13. The title for the collection of information is "Rule 204" and the OMB control number for

the collection of information is 3235-0647.

General comments regarding the above information should be directed to the following persons: (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 e-mail to: *Shagufta\_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA\_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: October 5, 2009.

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-24358 Filed 10-8-09; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60765; File No. SR-NSCC-2009-08]

### Self-Regulatory Organizations; The National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise Fees for Certain Insurance and Retirement Processing Services

October 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 10, 2009, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to revise fees for certain retirement and insurance processing services.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.<sup>2</sup>

##### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise fees for certain insurance and retirement processing services provided by NSCC to better align fees with the costs of delivering services.<sup>3</sup>

Effective October 1, 2009, NSCC is adopting an incentive discount for Registered Representative ("REP") and Brokerage Identification Number ("BIN") transactions, a subset of In-Force Transaction types that are formally called "Brokerage Identification Number Change Requests," "Brokerage Identification Number Change Confirms," "Registered Representative Change Requests," and "Registered Representative Change Confirms." The first \$350 that NSCC charges to a member each month for such transactions shall be waived. Further, effective October 1, 2009, a member that submits any of these transaction types will receive a credit equaling 30% of its monthly fee for BIN and REP transactions.<sup>4</sup> The 30% credit will then be applied against fees that are charged to a member for NSCC's established Insurance and Retirement Products (called "Core Products"). Established products that are designated as Core Products are Positions, Commissions, Financial Activity Reporting, Applications/Subsequent Premiums, and Asset Pricing. The purpose of bundling products in this fashion and providing a credit in connection with usage of new products is to compensate members for the

<sup>2</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>3</sup> This proposed rule change filing replaces proposed rule change filing SR-NSCC-2009-06, which was withdrawn by NSCC on September 9, 2009.

<sup>4</sup> The credit will be calculated by subtracting the \$350 discount from the member's total monthly BIN and REP fees and then multiplying that resulting amount by 30%.

<sup>7</sup> See *supra* note 1.

<sup>1</sup> 15 U.S.C. 78s(b)(1).