SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 249 and 274

Technical Amendments to Forms N–CSR and N–SAR in Connection With the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; technical amendments.

SUMMARY: The Securities and Exchange Commission is adopting technical amendments to Forms N–CSR and N–SAR under the Securities Exchange Act of 1934 and the Investment Company Act of 1940 in connection with amendments to Section 13(c) of the Investment Company Act that were included in the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.

DATES: Effective Date: October 19, 2010.

FOR FURTHER INFORMATION CONTACT:


I. Discussion

On July 1, 2010, the President signed the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (“Iran Divestment Act”) into law.5 Among other things, the Iran

1 17 CFR 249.331 and 274.128.
4 15 U.S.C. 80a–1 et seq.
Divestment Act amended Section 13(c) of the Investment Company Act to provide that no person may bring any civil, criminal, or administrative action against any registered investment company, or any employee, officer, director, or investment adviser of the investment company, based solely upon the investment company divesting from, or avoiding investing in, securities issued by persons that the investment company determines, using credible information that is available to the public, engage in certain investment activities in Iran. Section 13(c)(2)(B) of the Investment Company Act provides that this limitation on actions does not apply to a registered investment company, or any of its employees, officers, directors, or investment advisers, unless the investment company makes disclosures about the divestments in accordance with regulations prescribed by the Commission. To that end, the Iran Divestment Act requires that we issue, not later than 120 days after enactment, any revisions we determine to be necessary to the regulations requiring disclosure by each registered investment company that divests itself of securities in accordance with Section 13(c) of the Investment Company Act to include divestments of securities in accordance with the amendments added by the Iran Divestment Act.

Under our current regulations, each registered investment company that divests itself of securities in accordance with Section 13(c) of the Investment Company Act is required to disclose the divestment on the next Form N–CSR or Form N–SAR that it files following the divestment. Management investment companies are required to provide the disclosure on Form N–CSR, pursuant to Item 6(b) of the form, and unit investment trusts are required to provide the disclosure on Form N–SAR, pursuant to Item 133 of the form.

These form items were originally adopted to implement the Sudan Accountability and Divestment Act of 2007 ("Sudan Divestment Act"), which limits civil, criminal, and administrative actions that may be brought against a registered investment company that divests from securities of issuers that conduct or have direct investments in certain business operations in Sudan, provided that the investment company makes disclosures in accordance with regulations prescribed by the Commission. As a result, each item contains a termination provision that is based on the termination of the relevant provisions of the Sudan Divestment Act. Moreover, the instructions to the items contain references to the Sudan Divestment Act. Specifically, Instruction 1 to Item 6(b) of Form N–CSR and the Instruction to Item 133 of Form N–SAR each include a statement that Section 13(c) of the Investment Company Act was added by the Sudan Divestment Act. In addition, the heading to the Instruction to Item 133 of Form N–SAR includes a reference to the Sudan Divestment Act.

The requirements of Item 6(b) of Form N–CSR and Item 133 of Form N–SAR apply to divestment of securities in accordance with Section 13(c) of the Investment Company Act. Therefore, we have determined that the items are broad enough to apply to disclosure of divestment of securities in accordance with the amendments added to Section 13(c) added by the Iran Divestment Act without substantive revision. However, we have determined that it is appropriate to make technical revisions that remove the references to the Sudan Divestment Act from the forms and require disclosure of a Section 13(c) divestment to specify whether it is undertaken pursuant to the Sudan Divestment Act or the Iran Divestment Act.

Specifically, in accordance with the Iran Divestment Act, we are amending our forms to delete the references to the Sudan Divestment Act from Instruction 1 to Item 6(b) of Form N–CSR, the Instruction to Item 133 of Form N–SAR, and the heading to the Instruction on the date of filing. Item 6(b)(6) of Form N–CSR; Item 133.F of Form N–SAR. While a registered investment company is not required to include disclosure under the relevant item, the limitation on actions provided in Section 13(c) does not apply with respect to a divestment that is not disclosed. Instruction 1 to Item 6(b) of Form N–CSR; Instruction to Item 133 of Form N–SAR.

The regulations require disclosure of information that will identify the securities divested and the magnitude of the divestment, including the issuer’s name; exchange ticker symbol; Committee on Uniform Securities Identification Procedures ("CUSIP") number; total number of shares or, for debt securities, principal amount of such securities, held by the registrant. These revisions merely revise Item 6(b) of Form N–CSR.
and Item 133 of Form N–SAR to make them consistent with a newly enacted statute, Section 203 of the Iran Divestment Act, the Commission finds that the amendments are technical in nature and that publishing the amendments for comment is unnecessary.14

Publication of a substantive rule not less than 30 days before its effective date is required by the APA except as otherwise provided by the agency for good cause.15 For the same reasons described above with respect to notice and opportunity for comment, the Commission finds that there is good cause for making the technical amendments to each of the forms effective on the date of publication in the Federal Register.

The form amendments contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995 (“PRA”).16 The titles for the collections of information are “Form N–CSR under the Investment Company Act of 1940 and Securities Exchange Act of 1934, Certified Shareholder Report,” and “Form N–SAR under the Investment Company Act of 1940, Semi-Annual Report for Registered Investment Companies.” Form N–CSR (OMB Control No. 3235–0570) under the Exchange Act and the Investment Company Act is used by registered management investment companies filing certified shareholder reports. Form N–SAR (OMB Control No. 3235–0330) under the Exchange Act and the Investment Company Act is used by registered investment companies to file periodic reports with the Commission. 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 do not believe that the technical amendments necessitate an increase in the current PRA burden estimates for Form N–CSR and Form N–SAR because the estimated current PRA burden estimates for these forms, i.e., 510 hours (out of a total burden of 138,662.3 hours, or 0.37%) 17 for Form N–CSR and 10 hours (out of a total burden of 107,213.0 hours, or 0.01%) 18 for Form N–SAR, will reflect additional filings for divestments in accordance with the Iran Divestment Act.

We also do not believe that the technical amendments necessitate a decrease in the current PRA burden estimates for Form N–CSR and Form N–SAR because we do not know the extent to which divestments in accordance with the Iran Divestment Act will occur, believe that it is appropriate to maintain a conservative assumption that each Form N–CSR and N–SAR filing by an international investment company portfolio that had an international investment strategy appears that there have been less than total ten filings by investment companies disclosing a divestment in accordance with the Sudan Divestment Act.19

Based on this experience, we do not believe that it is appropriate to adjust our existing estimate upwards to reflect additional filings for divestments in accordance with the Iran Divestment Act. The form amendments contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995 (“PRA”).20 The titles for the collections of information are “Form N–CSR under the Investment Company Act of 1940 and Securities Exchange Act of 1934, Certified Shareholder Report,” and “Form N–SAR under the Investment Company Act of 1940, Semi-Annual Report for Registered Investment Companies.” Form N–CSR (OMB Control No. 3235–0570) under the Exchange Act and the Investment Company Act is used by registered management investment companies filing certified shareholder reports. Form N–SAR (OMB Control No. 3235–0330) under the Exchange Act and the Investment Company Act is used by registered investment companies to file periodic reports with the Commission. 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.

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III. Statutory Authority

The Commission is adopting amendments to Form N–SAR and Form N–CSR pursuant to authority set forth in Section 203(b) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 and Sections 10(b), 13, 15(d), 23(a), and 36 of the Exchange Act [15 U.S.C. 78(b), 78m, 78o(d), 78w(a), and 78nn], and Sections 8, 13(c), 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a–8, 80a–13(c), 80a–24(a), 80a–29, and 80a–37].

List of Subjects

17 CFR Part 249

Reporting and recordkeeping requirements, Securities.

17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Form Amendments

For the reasons set out in the preamble, the Commission amends Title 17, Chapter II, of the Code of Federal Regulations as follows.

14 This finding also satisfies the requirements of 5 U.S.C. 801(b)(2) (if a federal agency finds that notice and public comment are “impractical, unnecessary or contrary to the public interest,” a rule “shall take effect at such time as the federal agency promulgating the rule determines”), allowing the amendments to become effective notwithstanding the requirement of 5 U.S.C. 801.

The amendments do not require analysis under the Regulatory Flexibility Act. See 5 U.S.C. 601(2) (for purposes of Regulatory Flexibility Act analysis, the term “rule” means any rule for which the agency publishes a general notice of proposed rulemaking).

15 5 U.S.C. 553(d).

16 44 U.S.C. 3501 et seq.


18 See id. (6,743 annual and semi-annual filings on Form N–CSR × 15% of filings on Form N–CSR) + 190 filings on Form N–SAR × 15% of filings on Form N–SAR = 1,025 filings.

19 Based on the Commission staff’s review of filings made with the Commission.


21 Id.


PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a et seq., and 7201 et seq., and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

2. 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.

* * * * *

§§ 249.330 and 274.101) is amended by:

a. In paragraph E. of Item 133, deleting the word “and”;

b. In paragraph F. of Item 133, revising “filing” to read “filing; and”;

c. Adding new paragraph G. to Item 133;

d. Revising the sentence immediately following new paragraph G. to Item 133;

e. In the heading to the Instruction to Item 133, deleting the phrase “in Accordance with the Sudan Accountability and Divestment Act of 2007”; and

f. In the first sentence of the Instruction to Item 133, deleting the phrase “…which was added by the Sudan Accountability and Divestment Act of 2007”. The addition and revision read as follows:

Note: The text of Form N–CSR does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–CSR

* * * * *

Item 6. Investments.

(a) * * *

(b) * * *

(7) Name of the statute that added the provision of Section 13(c) in accordance with which the securities were divested. This Item 6(b) shall terminate one year after the first date on which all statutory provisions that underlie Section 13(c) of the Investment Company Act of 1940 have terminated.

* * * * *

By the Commission.

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2010–26306 Filed 10–18–10; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9505]

RIN 1545–BG36

Hybrid Retirement Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final Regulations.

SUMMARY: This document contains final regulations providing guidance relating to certain provisions of the Internal Revenue Code (Code) that apply to hybrid defined benefit pension plans. These regulations provide guidance on changes made by the Pension Protection Act of 2006, as amended by the Worker, Retiree, and Employer Recovery Act of 2008. These regulations affect sponsors, administrators, participants, and beneficiaries of hybrid defined benefit pension plans.

DATES: Effective Date: These regulations are effective on October 19, 2010.

Applicability Date: These regulations generally apply to plan years that begin on or after January 1, 2011. However, see the “Effective/Applicability Dates” section in this preamble for additional information regarding the applicability of these regulations.

FOR FURTHER INFORMATION CONTACT: Neil S. Sandhu, Lauson C. Green, or Linda S. F. Marshall at (202) 622–6090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 411(a)(13) and 411(b)(5) of the Code. Generally, a defined benefit pension plan must satisfy the minimum vesting standards of section 411(a) and the accrual requirements of section 411(b) in order to be qualified under section 401(a) of the Code. Sections 411(a)(13) and 411(b)(5) modify the minimum vesting standards of section 411(a) and the accrual requirements of section 411(b), were added to the Code by section 701(b) of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA ’06). Sections 411(a)(13) and 411(b)(5), as well as certain effective date provisions related to these sections, were subsequently amended by the Worker, Retiree, and Employer Recovery Act of 2008, Public Law 110–436 (122 Stat. 5092 (2008)) (WRERA ’08).

Section 411(a)(13)(A) provides that an applicable defined benefit plan (which is defined in section 411(a)(13)(C)) is not treated as failing to meet either (i) the requirements of section 411(a)(2) (subject to a special vesting rule in section 411(a)(13)(B) with respect to benefits derived from employer contributions) or (ii) the requirements of section 411(a)(11), 411(c), or 417(e), with respect to accrued benefits derived from employer contributions, merely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the terms of the plan, equal to the amount expressed as the balance of a hypothetical account or as an accumulated percentage of the participant’s final average compensation. Section 411(a)(13)(B) requires an applicable defined benefit plan to provide that an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee’s accrued benefit derived from employer contributions.

Under section 411(a)(13)(C)(i), an applicable defined benefit plan is defined as a defined benefit plan under which the accrued benefit (or any portion thereof) of a participant is calculated as the balance of a hypothetical account maintained for the participant or as an accumulated percentage of the participant’s final...