

each individual seeking unescorted access to an ISFSI, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 415-5877, or by e-mail to [forms@nrc.gov](mailto:forms@nrc.gov). Practicable alternative formats are set forth in 10 CFR 73.4. The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

2. The NRC will review submitted fingerprint cards for completeness. Any Form FD-258 fingerprint record containing omissions or evident errors will be returned to the licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free resubmission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

3. Fees for processing fingerprint checks are due upon application. The licensee shall submit payment of the processing fees electronically. In order to be able to submit secure electronic payments, licensees will need to establish an account with Pay.Gov (<https://www.pay.gov>). To request an account, the licensee shall send an e-mail to [det@nrc.gov](mailto:det@nrc.gov). The e-mail must include the licensee's company name, address, point of contact (POC), POC e-mail address, and phone number. The NRC will forward the request to Pay.Gov; who will contact the licensee with a password and user ID. Once licensees have established an account and submitted payment to Pay.Gov, they shall obtain a receipt. The licensee shall submit the receipt from Pay.Gov to the NRC along with fingerprint cards. For additional guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415-7739. Combined payment for multiple applications is acceptable. The application fee (currently \$36) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee, and an NRC processing fee, which covers administrative costs associated with

NRC handling of licensee fingerprint submissions. The Commission will directly notify licensees who are subject to this regulation of any fee changes.

4. The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

#### *F. Right To Correct and Complete Information*

1. Prior to any final adverse determination, the licensee shall make available to the individual the contents of any criminal history records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the licensee for a period of one (1) year from the date of notification.

2. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (*i.e.*, law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537-9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of a FBI CHRC after the record is made available for his/her review. The licensee may make a final access determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to an ISFSI, the licensee shall provide the individual its documented basis for denial. Access to an ISFSI shall not be granted to an individual during the review process.

#### *G. Protection of Information*

1. The licensee shall develop, implement, and maintain a system for personnel information management with appropriate procedures for the protection of personal, confidential information. This system shall be designed to prohibit unauthorized access to sensitive information and to prohibit modification of the information without authorization.

2. Each licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures, for protecting the record and the personal information from unauthorized disclosure.

3. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining suitability for unescorted access to the protected area of an ISFSI. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have the appropriate need-to-know.

4. The personal information obtained on an individual from a criminal history record check may be transferred to another licensee if the gaining licensee receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

5. The licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

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## **RAILROAD RETIREMENT BOARD**

### **Agency Forms Submitted for OMB Review, Request for Comments**

*Summary:* In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding two (2) Information Collection Requests (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek

to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

1. *Title and Purpose of Information Collection:* Employer's Quarterly Report of Contributions Under the RUIA, RRB Form DC-1; OMB 3220-0012.

Under Section 8 of the Railroad Unemployment Insurance Act (RUIA), as amended by the Railroad Unemployment Improvement Act of 1988 (Pub. L. 100-647), the amount of each employer's contribution is determined by the RRB, primarily on the basis of RUIA benefit payments made to the employees of that employer. These experienced based contributions, take into account the frequency, volume and duration of RUIA benefits, both unemployment and sickness, attributable to a railroad's employees. Each employer's contribution rate includes a component for administrative expenses and a component to cover costs shared by all employers. The regulations prescribing the manner and conditions for remitting the contributions and for adjusting overpayments or underpayments of contributions are contained in 20 CFR 345.

RRB Form DC-1, Employer's Quarterly Report of Contributions Under the Railroad Unemployment Insurance Act, is currently utilized by the RRB for the reporting and remitting of quarterly contributions by railroad employers. The RRB utilizes a manual version of Form DC-1 and also provides railroad employers with the option of reporting the required information and remitting their quarterly contributions via an Internet equivalent version Form DC-1.

One response is requested quarterly of each respondent and completion is mandatory. The estimated completion for the manual and Internet version of Form DC-1 is estimated at 25 minutes.

*Previous Requests for Comments:* The RRB has already published the initial 60-day notice (74 FR 3115 on January 16, 2009) required by 44 U.S.C.

3506(c)(2). That request elicited no comments.

#### **Information Collection Request (ICR)**

*Title:* Employer's Quarterly Report of Contributions Under the RUIA.

*Form(s) submitted:* DC-1.

*OMB Control Number:* 3220-0012.

*Expiration date of current OMB clearance:* 3/31/2009.

*Type of request:* Extension without change of a currently approved collection.

*Affected Public:* Business or other for-profit.

*Estimated annual number of respondents:* 540.

*Total annual responses:* 2,160.

*Total annual reporting hours:* 900.

*Abstract:* Railroad employers are required to make contributions to the Railroad Unemployment Insurance fund quarterly or annually equal to a percentage of the creditable compensation paid to each employee. The information furnished on the report accompanying the remittance is used to determine correctness of the amount paid.

*Changes Proposed:* The RRB proposes no changes to Form DC-1.

2. *Title and Purpose of Information Collection:* Applicant Background Survey: RRB Form EEO-44, OMB 3220-0201.

This information collection is needed to comply with Federal laws and regulations. 5 U.S.C. Chapter 72 section 7201 establishes an anti-discrimination policy. Title VII of the Civil Rights Act of 1964, section 2000e-8 [section 709], requires agencies to make and keep relevant records to identify unlawful employment practices. 29 CFR section 1602 allows agencies to collect data to determine if there is any adverse impact on employment practices such as recruitment or selection.

The RRB's Equal Employment Office collects data to assess the impact of the agency's recruitment processes on the hiring of minorities, women and people with disabilities. To obtain the information necessary to conduct a proper assessment, the RRB utilizes Form EEO-44, Applicant Background Survey, which collects information about the racial or ethnic identity, gender and disability of applicants for RRB jobs from outside of the Federal government.

Form EEO-44 is only viewed by RRB Human Resources personnel and Equal Employment Opportunity officials. Summarized data from all external applicants for a position is used to identify hiring barriers which limit or tends to limit employment opportunities for members of a

particular sex, race, or ethnic background, or based on an individual's disability status.

The EEO-44 contains a "Plain English" assurance that the information will be kept highly confidential and only shared with authorized RRB officials. This assurance specifically states that the information obtained is kept as a running tally which cannot be disaggregated into individual names, that information from the form is not entered into the RRB's personnel database, that the information is not provided to selecting officials or any others who can affect the selection, or to the public, and that the form is destroyed after the position is filled. The information maintained does not include the applicant's name or other identifier.

Completion of one form EEO-44 is requested of each respondent and completion is voluntary. The RRB estimates the completion time Form EEO-44 at 5 minutes.

*Previous Requests for Comments:* The RRB has already published the initial 60-day notice (74 FR 3115 on January 16, 2008) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

#### **Information Collection Request (ICR)**

*Title:* Applicant Background Survey.

*Form(s) submitted:* EEO-44.

*OMB Control Number:* 3220-0201.

*Expiration date of current OMB clearance:* 3/31/2009.

*Type of request:* Extension without change of a currently approved collection.

*Affected Public:* Individuals or Households, Business or other for-profit.

*Estimated annual number of respondents:* 800.

*Total annual responses:* 800.

*Total annual reporting hours:* 67.

*Abstract:* To meet reporting requirements of Equal Employment Opportunity Commission (EEO) Management Directive 715, the RRB collects information needed to properly assess the impact of its recruitment process on the hiring of minorities, women, and people with disabilities.

*Changes Proposed:* The RRB proposes no changes to Form EEO-44.

*Additional Information or Comments:* Copies of the form and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312-751-3363) or [Charles.Mierzwa@rrb.gov](mailto:Charles.Mierzwa@rrb.gov).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092 or

Ronald.Hodapp@rrb.gov and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,  
Clearance Officer.

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28649; 812-13519]

### Massachusetts Financial Services Company, et al.; Notice of Application

March 17, 2009.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice of an application for an order under section 12(d)(1)(f) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act, and under section 6(c) of the Act for an exemption from rule 12d1-2(a) under the Act.

*Summary of the Application:* The requested order would (a) permit certain registered management investment companies to acquire shares of certain registered open-end management investment companies that are outside the same group of investment companies as the acquiring investment companies, and (b) permit funds of funds relying on rule 12d1-2 under the Act to invest in certain financial instruments.

*Applicants:* MFS Series Trust I, MFS Series Trust III, MFS Series Trust IV, MFS Series Trust V, MFS Series Trust IX, MFS Series Trust X, MFS Series Trust XI, MFS Series Trust XII, and MFS Series Trust XIII (collectively, the “Trusts”), Massachusetts Financial Services Company (the “Adviser”), and MFS Fund Distributors, Inc. (the “Distributor”).

*Filing Dates:* The application was filed on April 17, 2008, and amended on November 26, 2008. Applicants have agreed to file an amendment during the notice period, the substance of which is contained in this notice.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request,

personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 13, 2009, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. Applicants, 500 Boylston Street, Boston, MA 02116.

**FOR FURTHER INFORMATION CONTACT:** Christine Y. Greenlees, Senior Counsel, at (202) 551-6879, or Mary Kay Frech, Branch Chief, at (202) 551-6821 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Public Reference Desk, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549-0102 (telephone (202) 551-5850).

#### Applicants’ Representations

1. The Trusts are open-end management investment companies registered under the Act and organized as Massachusetts business trusts. Each Trust is comprised of separate series that pursue distinct investment objectives and strategies. The Trusts are part of the same “group of investment companies” within the meaning of section 12(d)(1)(G)(ii) of the Act. The Adviser, a Delaware corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 (“Advisers Act”) and serves as investment adviser to the Trusts.<sup>1</sup> The Distributor is a Delaware corporation and is registered as a broker-dealer under the Securities Exchange Act of 1934 (the “Exchange Act”). The Distributor serves as principal underwriter and distributor for the shares of the Underlying Funds (as defined below) and the Related Funds of Funds (as defined below).

2. Applicants request an exemption to permit registered management investment companies that operate as a

<sup>1</sup> All references to the term “Adviser” include successors-in-interest to the Adviser. Successors-in-interest are limited to any entity resulting from a name change, a reorganization of the Adviser into another jurisdiction or a change in the type of business organization.

“fund of funds” and that are not part of the same “group of investment companies,” within the meaning of section 12(d)(1)(G)(ii) of the Act, as the Trusts (“Unrelated Funds of Funds”) to acquire shares of separate series of the Trusts that do not operate as “funds of funds” (“Underlying Funds”)<sup>2</sup> in excess of the limits in section 12(d)(1)(A) of the Act, and to permit Underlying Funds, any principal underwriter for an Underlying Fund, and any broker or dealer registered under the Exchange Act (“Broker”) to sell shares of an Underlying Fund to an Unrelated Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act. Applicants request that the relief apply to: (1) Each registered open-end management investment company or series thereof that currently or subsequently is part of the same “group of investment companies,” within the meaning of section 12(d)(1)(G)(ii) of the Act, as the Trusts, and that is advised or sponsored by the Adviser or any entity controlling, controlled by, or under common control with the Adviser (such registered open-end management investment companies or their series are included in the term “Underlying Funds”); (2) each Unrelated Fund of Funds that enters into a Participation Agreement (as defined below) with an Underlying Fund to purchase shares of the Underlying Fund; and (3) any principal underwriter to an Underlying Fund or Broker selling shares of an Underlying Fund.<sup>3</sup>

3. Each Unrelated Fund of Funds will be advised by an investment adviser, within the meaning of section 2(a)(20)(A) of the Act, that is registered as an investment adviser under the Advisers Act (an “Unrelated Fund of

<sup>2</sup> As of the date of the application, the Underlying Funds include the following series of MFS Series Trust I: MFS Core Growth Fund, MFS New Discovery Fund, MFS Research International Fund, MFS Value Fund; the following series of MFS Series Trust III: MFS High Income Fund; the following series of MFS Series Trust IV: MFS Mid Cap Growth Fund, MFS Money Market Fund; the following series of MFS Series Trust V: MFS International New Discovery Fund, MFS Research Fund; the following series of MFS Series Trust IX: MFS Inflation-Adjusted Bond Fund, MFS Limited Maturity Fund, MFS Research Bond Fund; the following series of MFS Series Trust X: MFS Emerging Markets Equity Fund, MFS Floating Rate High Income Fund, MFS International Growth Fund, MFS International Value Fund; the following series of MFS Series Trust XI: MFS Mid Cap Value Fund; and the following series of MFS Series Trust XIII: MFS Government Securities Fund.

<sup>3</sup> All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application. An Unrelated Fund of Funds may rely on the requested order only to invest in an Underlying Fund and not in any other registered investment company.