

RULE 17a-5

SUPPORTING STATEMENT

A. Justification

1. Necessity of the Collection of Information

Section 17(a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) provides that brokers or dealers must “make and disseminate such reports” as the Securities and Exchange Commission (“Commission”) “by rule, prescribes . . .” Under that section, the Commission has adopted Rule 17a-5 (“Rule”), which is the basic financial reporting rule for brokers and dealers.¹ The Rule requires the filing of Form X-17A-5, the Financial and Operational Combined Uniform Single Report (“FOCUS Report”), which was the result of years of study and comments by representatives of the securities industry through advisory committees and through the normal rule proposal methods. The FOCUS Report was designed to eliminate the overlapping regulatory reports required by various self-regulatory organizations and the Commission and to reduce reporting burdens as much as possible. The Rule also requires the filing of an annual audited report of financial statements.

The FOCUS Report consists of: (1) Part I, which is a monthly report that must be filed by brokers or dealers that clear transactions or carry customer securities; (2) one of three alternative quarterly reports: Part II, which must be filed by brokers or dealers that clear transactions or carry customer securities; Part IIA, which must be filed by brokers or dealers that do not clear transactions or carry customer securities; and Part IIB, which must be filed by specialized broker-dealers registered with the Commission as OTC derivatives dealers;² (3) supplemental schedules, which must be filed annually; and (4) a facing page, which must be filed with the annual audited report of financial statements. Under the Rule, a broker or dealer that computes certain of its capital charges in accordance with Appendix E to Exchange Act Rule 15c3-1 must file additional monthly, quarterly, and annual reports with the Commission.

2. Purpose of and Consequences of Not Requiring the Collection of Information

The information collected is used to monitor the financial and operational condition of brokers or dealers by the self-regulatory organization that is the broker’s or dealer’s designated examining authority and by the Commission staff. The FOCUS Report and the annual audited report are the primary means of ensuring compliance with applicable Commission rules, particularly rules pertaining to financial responsibility. A firm’s failure to comply with these rules would severely impair the Commission’s and the self regulatory organizations’ ability to protect customers. In addition, the Commission staff utilizes the FOCUS Report information in preparation for broker or dealer examinations and inspections. The completed forms also are

¹ Rule 17a-5(c) requires a broker or dealer to furnish certain of its financial information to customers and is subject to a separate PRA filing (OMB Control Number 3235-0199).

² Part IIB of Form X-17A-5 must be filed by OTC derivatives dealers under Exchange Act Rule 17a-12 and is subject to a separate PRA filing (OMB Control Number 3235-0498).

used to determine which firms are engaged in various securities-related activities, the type and extent to which they are engaged in those activities, and how economic events and government policies might affect various segments of the securities industry. Additionally, the self-regulatory organizations review the information contained in the FOCUS Reports on a monthly or quarterly basis depending on the individual firm's reporting requirement.

3. Role of Improved Information Technology and Obstacles to Reducing a Burden

The data required in the FOCUS Report is tailored to the type of business the broker or dealer engages in. The burden is therefore generally proportional to the size and complexity of the firm. As of 2005 year-end, approximately 98% of the annual responses to the Rule were filed electronically.

4. Efforts to Identify Duplication

The Commission originally designed the Rule to eliminate duplicative reporting requirements among the various securities regulatory agencies.

5. Effect on Small Businesses

The majority of small brokers and dealers file Part IIA of Form X-17A-5 because they do not hold customer funds or securities. Part IIA is much shorter and requests much less information than Part II, which is filed by firms that hold customer funds and securities. Out of approximately 600 firms that must file Part II, approximately 40 are small firms. It would be inappropriate to provide these small firms with an exemption from this Rule because the report provides critical financial information about firms responsible for the safekeeping and disposition of investors' cash and securities.

6. Purpose of and Consequences of Not Requiring the Information Collection

If the required collection of information were eliminated, the protections afforded to the public would be lessened. Further, if the required collection were conducted less frequently, the financial information would become outdated.

7. Inconsistencies with Guidelines in 5 CFR 1320.8(d)

Not applicable. This collection is consistent with the guidelines in 5 CFR 1320.8(d).

8. Consultations Outside the Agency

The form was approved after years of study and comment by representatives of the securities industry through advisory committees and through the normal rule proposal method. No comments were received during the 60 day comment period prior to OMB's review.

9. Payment or Gift to Respondents

Not applicable.

10. Assurance of Confidentiality

The information in the FOCUS Report is confidential pursuant to Rule 17a-5(a)(3).

11. Sensitive Questions

Not applicable. No inquiries of a sensitive nature are made.

12. Estimate of Respondent Reporting Burden

The variation in the size and complexity of brokers and dealers subject to Rule 17a-5 and the differences in the FOCUS Report forms that must be filed under the Rule make it difficult to calculate the cost of compliance. Consequently, the time required to prepare and file a report required by the Rule will vary substantially. However, we estimate that, on average, each report will require approximately 12 hours. At year-end 2005, the Commission estimates that there were approximately 6,200 brokers or dealers, and that of those firms there were approximately 600 brokers or dealers that clear transactions or carry customer securities. In addition, approximately 400 firms filed annual reports. The Commission therefore estimates that approximately 600 firms filed monthly reports, approximately 5,600 firms filed quarterly reports, and approximately 400 firms filed annual reports. In addition, approximately 6,200 firms filed annual audited reports. As a result, there were approximately 36,200 total annual responses $((600 \times 12) + (5,600 \times 4) + 400 + 6,200 = 36,200)$. This results in an estimated annual burden of 434,400 hours $(36,200 \text{ annual responses} \times 12 \text{ hours} = 434,400)$.

In addition, we estimate that approximately 11 brokers or dealers will elect to use Appendix E to Rule 15c3-1 to compute certain of their capital charges (as of June 2006, five brokers or dealers have elected to use Appendix E). We estimate that the average amount of time necessary to prepare and file the additional monthly reports that must be filed by these firms is about 4 hours per month, or approximately 48 hours per year; the average amount of time necessary to prepare and file the additional quarterly reports is about 8 hours per quarter, or approximately 32 hours per year; and the average amount of time necessary to prepare and file the additional supplemental reports with the annual audit required is approximately 40 hours per year. Consequently, we estimate that the total additional annual burden for these 11 brokers or dealers for 187 annual responses $(11 \times (12 + 4 + 1) = 187)$ is approximately 1,320 hours $((48 + 32 + 40) \times 11 = 1,320)$.

The Commission therefore estimates that the total annual burden under Rule 17a-5 is approximately 435,700 hours $(434,400 + 1,320 = 435,720, \text{ rounded to } 435,700)$ and that there are 36,387 annual responses $(36,200 + 187 = 36,387)$.

13. Estimate of Total Annualized Cost Burden

Other than the costs discussed in item 12 above, the Rule does not impose any additional costs.

14. Estimate of Cost to Federal Government

The Commission estimates that the Commission's Office of Filings and Information Services spends approximately 1,500 hours per year processing broker-dealer audited financial reports. The cost to the Commission including the value of staff time and related overhead is \$50 per hour, resulting in a total annual cost of \$75,000 (1,500 hours × \$50 per hour). These estimates have been computed based on the GSA, Guide to Estimating Reporting Costs (1973).

15. Explanation of Changes in Burden

The change in the annual burden from 417,780 hours to 435,700 hours is due to changes in the number of respondents.

16. Information Collections Planned for Statistical Purposes

Not applicable. The information collected is not used for tabulation, statistical analysis or publication.

17. Explanation as to Why Expiration Date Will Not Be Displayed

Not applicable. The Commission is not seeking approval to not display the expiration date for OMB approval.

18. Exceptions to Certification

Not applicable. The Commission is not seeking an exception to the certification statement.

B. Collection of Information Employing Statistical Methods

Not applicable. This collection does not involve statistical methods.