

## SUPPORTING STATEMENT

### A. Justification.

#### 1. Necessity for Information Collection.

The Securities Exchange Act of 1934 (“Exchange Act”) was enacted by Congress to regulate the nation’s securities markets and the securities professionals who participate in those markets. The Exchange Act establishes a regulatory scheme for broker-dealers to effect transactions in securities. In addition, the Exchange Act and the rules promulgated thereunder require broker-dealers to meet minimum standards designed to protect investors.

In 2000, Congress enacted the Commodity Futures Modernization Act of 2000 (“CFMA”).<sup>1</sup> Among other purposes, the CFMA permits the trading of security futures products. Security futures products are defined as securities for purposes of the Exchange Act, and as futures contracts for purposes of the Commodity Exchange Act. The CFMA added Section 15(b)(11) to the Exchange Act, which provides that futures commission merchants and introducing brokers that are registered with the Commodity Futures Trading Commission (“CFTC”) may register with the Commission as broker-dealers for the purpose of effecting transactions in security futures products by filing a written notice with the Commission.<sup>2</sup>

To implement the foregoing statutory provisions of the Exchange Act, the Commission has promulgated Rule 15b11-1 (17 C.F.R. 240.15b11-1) and Form BD-N (17 C.F.R. 249.501b) to serve as the form of notice for futures commission merchants and introducing brokers that register as broker-dealers by notice pursuant to Section 15(b)(11)(A) of the Exchange Act. Specifically, the form requires a broker-dealer registering by notice to indicate whether it is filing a notice registration to conduct a securities business in security futures products and if so, that it satisfies the statutory conditions for notice registration. These items enable the Commission and other regulators to identify notice-registered broker-dealers.

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

The Commission will use the information collected pursuant to Rule 15b11-1 to elicit basic identification information as well as information that will allow the Commission to ensure that the futures commission merchants and introducing brokers meet the statutory conditions to register by notice pursuant to Section 15(b)(11) of the Exchange Act. This information will assist the Commission in fulfilling its regulatory obligations.

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

---

<sup>1</sup> Pub. L. No. 106-554, Appendix E, 114 Stat. 2763.

<sup>2</sup> 15 U.S.C. 78o(b)(11).

Applicants for notice registration as broker-dealers currently file Form BD-N with the National Futures Association (“NFA”). This method of collecting information reduces the regulatory burden upon notice-registered broker-dealers by permitting them to file applications for registration and amendments thereto at one central location, rather than filing Form BD-N separately with the Commission and other regulators.

4. Efforts to Identify Duplication.

Not applicable. The Commission believes that no duplication of the requirement of Rule 15b11-1 exists.

5. Effect on Small Entities.

Not applicable. Rule 15b11-1 applies uniformly to all entities.

6. Consequences of Less Frequent Collection.

Applicants for notice registration as broker-dealers generally are required to file Form BD-N only once to register and are required to file amendments to Form BD-N only when information originally reported in Form BD-N changes or becomes inaccurate. Therefore, less frequent collection for Form BD-N information would impair the accuracy of the information available to the Commission and lessen the protection afforded investors.

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2).

This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultations Outside the Agency.

Rule 15b11-1 and Form BD-N are the result of discussions among Commission staff, the NASD, and staff of the CFTC.

9. Payment or Gift to Respondents.

Not applicable.

10. Assurance of Confidentiality.

No assurance of confidentiality is provided. The information filed in Form BD-N is available to the public.

11. Sensitive Questions.

Form BD-N does not impose the burden of any questions of a sensitive nature.

12. Estimate of Respondent Reporting Burden.

Based on the number of initial applications on Form BD-N the NFA received in fiscal year 2006, Commission staff estimates that the total number of initial applications that the NFA will receive on Form BD-N will be approximately 16. Commission staff has previously estimated that the average time necessary to complete the initial Form BD-N is approximately 30 minutes.<sup>3</sup> The Commission staff estimates that total annual burden hours required for filing initial Forms BD-N is 8 hours (16 initial applications x 0.5 hours per application).

Once registered on Form BD-N, notice-registered broker-dealers will be required to file amendments to Form BD-N when information originally reported in Form BD-N changes or becomes inaccurate. Commission staff has previously estimated that the average time necessary to complete an amendment to Form BD-N is approximately 15 minutes.<sup>4</sup> Based on the number of amendments on Form BD-N the NFA received in fiscal year 2006, Commission staff estimates that the total number of amendments that the NFA will receive on Form BD-N will be approximately 0 from approximately 570 notice-registered broker-dealers. Therefore, Commission staff estimates that the total annual burden hours for filing Form BD-N amendments by notice-registered broker-dealers is 0 hours (0 amendments per year x 0.25 hours per amendment).

The Commission staff previously estimated the total annual filing burden for Form BD-N and Form BD-N amendments to be 36 hours. Because of the estimated decline in the total number of responses, Commission staff now estimates that the total annual filing burden for Form BD-N and Form BD-N amendments is 8 hours (8 + 0).

For the purposes of this submission, our estimates regarding cost burdens have been computed according to the guidelines set forth in GSA, Guide to Estimating Reporting Costs (1973). Accordingly, the Commission staff has valued related overhead at 35 percent of the value of the combined salaries of the aforementioned participants.

13. Estimates of Total Annualized Cost Burden

---

<sup>3</sup> Securities Exchange Act Release No. 44730 (August 21, 2001), 66 FR 45138.

<sup>4</sup> Id.

Not applicable. It is not anticipated that respondents will have to incur any capital and start-up costs, nor any additional operational or maintenance costs (other than as provided in Item 12), to comply with the collection of information.

14. Estimate of Cost to Federal Government.

Because the NFA has agreed to accept and process all applications for notice-registered broker-dealers on Form BD-N, the cost to the federal government of processing a Form BD-N for purposes of Rule 15b11-1 is negligible.

15. Explanation of Changes in Burden.

The Commission staff's estimated total annual filing burden for Form BD-N and Form BD-N amendments decreased by 28 hours due to a decrease in the number of notice-registered broker-dealers filing Form BD-N and Form BD-N amendments.

16. Information Collections Planned for Statistical Purposes.

Not applicable.

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

Not applicable.

18. Exceptions to Certification.

Not applicable.

B. Collection of Information Employing Statistical Methods.

Not applicable. The collection of information on Form BD does not employ statistical methods.