

## SUPPORTING STATEMENT

### Rule 17f-2(c)

#### A. Justification

##### 1. Necessity for Information Collection

Section 17f-2 of the Securities Exchange Act of 1934 (the “Act”) was a response by Congress to the large number of securities thefts which occurred in the late 1960s. Testimony at hearings conducted before the Senate Permanent Subcommittee on Investigations between 1971 and 1974 indicated that trading in stolen securities was profitable for organized crime. Testimony also indicated that the inability to identify security risk personnel was a contributing factor to that problem. Accordingly, the Commission adopted Rule 17f-2 for the purpose of: 1) identifying security risk personnel; 2) providing criminal record information so that employers can make fully informed employment decisions; and 3) deterring persons with criminal records from seeking employment or association with covered entities.

Pursuant to 15 USC sections 78b, 78q(f) and 78w(a), Rule 17f-2(c) was adopted on March 16, 1976. The rule was last amended on November 18, 1982. Paragraph (c) of the rule allows persons required to be fingerprinted to submit their fingerprints through a national securities exchange or a national securities association in accordance with a plan submitted to, and approved by, the Commission. To date, plans have been approved for the American, Boston, Midwest, New York, Pacific, and Philadelphia stock exchanges, and for the Financial Industry Regulatory Authority (“FINRA”) and the Chicago Board Options Exchange (collectively the “SROs”).

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

Because the Federal Bureau of Investigation will not accept fingerprint cards directly from submitting organizations, Commission approval of plans from certain SROs is essential to the Congressional goal of fingerprint personnel in the security industry. The filing of these plans for review assures users and their personnel that fingerprint cards will be handled responsibly and with due care for confidentiality.

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

Improved information technology cannot be used in lieu of the fingerprint cards themselves because the FBI requires the actual fingerprint cards to check for criminal records.

##### 4. Efforts to Identify Duplication

Rule 17f-2(b) provides that if fingerprint cards have been submitted and are

maintained pursuant to any other law, the requirements of Section 17(f)(2) of the Act are satisfied.

5. Similar Information Cannot Be Used or Modified

No similar information is available.

6. Effects on Small Entities

This question is not applicable, because none of the SROs are small businesses.

7. Consequences to Federal Program

If the information is not collected, the Commission will be unable to meet the purposes of Section 17(f)(2).

8. Inconsistencies with Guidelines in 5 CFR 1320.5(d)

The information must be collected whenever a new employee is hired by the entities covered by Section 17(f)(2) of the Act. If the information were collected less frequently, the Attorney General's designee would ultimately be unable to identify security risk personnel on a timely basis.

9. Consultations Outside Agency

Commission staff consulted with certain SROs to ascertain the cost and hour burden in complying with Rule 17f-2(c).

10. Assurance of Confidentiality

The Privacy Act and the Freedom of Information Act provide protection from unwarranted disclosure.

11. Sensitive Questions

No questions of a sensitive nature are asked.

12. Estimate of Respondent Reporting Burden

Approximately 5,984 respondents submit approximately 368,000 fingerprint cards through exchanges or a registered security association on an annual basis. It is approximated that it should take 15 minutes to comply with Rule 17f-c(2). The total reporting burden is estimated to be 92,000 hours.

13. Estimate of Total Annualized Cost Burden

There is approximately a \$30 fee to process each fingerprinting card. Approximately 368,000 fingerprint cards are submitted annually. The total annualized cost is estimated to be \$11,040,000.

14. Estimated Annual Cost to Federal Government

Because the information will be collected by SROs, the Commission should incur no cost.

15. Explanation of Changes in Burden

The burden has been reduced because the number of respondents has been reduced.

16. Information Collection Planned for Statistical Purposes

Not applicable; there is no intention to publish the information for any purpose.

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

The collection of information does not employ statistical methods, nor would the implementation of such methods reduce burden or improve accuracy of results.