

SUPPORTING STATEMENT

Rule 17f-2(d)

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 factor contributing to that problem. Accordingly, the Commission adopted Rule 17f-2 for the purpose of: (i) identifying security risk personnel; (ii) providing criminal record information so that employers can make fully informed employment decisions; and (iii) deterring persons with criminal records from seeking employment or association with covered entities.

Pursuant to 15 USC §§78b, 78q(a), 78q(b), 78A(d) and 78w(a), Rule 17f-2(d) was adopted on March 16, 1976. The rule was last amended on November 18, 1982. Generally, paragraph (d) of the rule requires members of national securities exchanges, brokers, dealers, registered transfer agents, and registered clearing agencies to maintain the processed fingerprint cards or any substitute records when original fingerprint records are not returned by the FBI after processing. The retained record must state who rolled the fingerprints, the date of rolling, the date of submission to the FBI, and any information received from the FBI. These records are to be made available to the Commission or other examining authority for three years after termination of any employee or other person.

Rule 17f-2(d) permits the designated examining authorities of broker-dealers, under certain circumstances, to store and maintain records required to be kept by this rule. The required records may be maintained on microfilm.

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

Retention of fingerprint records enables the Commission or other examining authority to ascertain whether all required persons are being fingerprinted and whether proper procedures regarding fingerprinting are being followed. Retention of these records for the term of employment of all personnel plus three years ensures that law enforcement officials will have easy access to fingerprint cards on timely basis. This in turn acts as an effective deterrent to employee misconduct.

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

The 1982 amendments eased the regulatory compliance burden on submitting entities. Specifically, the amendments authorized self-regulatory organizations ("SROs") to retain fingerprint cards submitted by their participants. This change facilitated economies of scale in storage techniques, including use of microfilm.

4. Efforts to Identify Duplication

Pursuant to Rule 17f-2(b), an employee need only be fingerprinted once pursuant to any law. The maintenance requirements of (d) will apply to such records.

5. Effects on Small Entities

Because the rule permits the designated examining authority to maintain records on behalf of covered entities, small entities will receive the benefit of economies of scale.

6. Consequences of Less Frequent Collection

If information were collected less frequently, the Commission would be less able to ascertain whether all required persons are being fingerprinted and whether proper procedures regarding fingerprinting are being followed.

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

The rule requires covered entities to retain fingerprint records for the term of employment of the fingerprinted personnel plus three years. The retention period ensures that law enforcement officials will have easy access to fingerprint cards on a timely basis and acts as a deterrent to future criminal behavior. The collection is not conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

8. Consultations Outside Agency

The rule was subject to notice and comment when it was adopted. It has not been substantively amended since 1982 and there has been no recent need for consultation outside the agency.

9. Payment of Gift to Respondents

Not applicable.

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 are subject to the recordkeeping requirements of the rule (5,370 registered broker-dealers, which also represent the majority of the members of national securities exchanges, 6 operational clearing agencies, and 608 transfer agents). Each respondent keeps approximately 62 new records per year, which takes approximately 2 minutes per record for the respondent to maintain, for an annual burden of approximately 2 hours per respondent. The total annual hour burden is 11,968. All records subject to the rule must be retained for the term of employment plus 3 years.

(13) Estimate of Total Annualized Cost Burden

The total annual cost to submitting entities is approximately \$196,850. This figure reflects estimated internal costs of labor and storage of records.

(14) Estimated Annual Cost to Federal Government

Costs to the federal government for administering this program are minimal because most, if not all, processing and maintenance is performed by SROs or broker-dealers themselves.

(15) Explanation of Changes in Burden

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

(16) Information Collection Planned for Statistical Purposes

The collection of information is not planned for publication or statistical analysis.

(17) Explanation as to Why Expiration Date Will Not Be Displayed

Not applicable.

(18) Exceptions to Certification

This question is not applicable because there are no exceptions to certification.

B. Collection of Information Employing Statistical Methods

This section is not applicable.