

SUPPORTING STATEMENT

Rule 17Ad-3(b)

A. Justification

1. Necessity of Information Collection

As a result of the “paperwork crisis” that occurred in the late 1960’s during which the number of securities transactions exceeded the securities industry’s capacity to process those transactions, Congress enacted the Securities Acts Amendments of 1975. To facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions, Congress established a scheme of regulation to ensure that the transfer agents who process securities certificates meet the statutory goal. Those amendments to the Securities Exchange Act of 1934 (“Act”) and the rules thereunder require transfer agents to meet minimum performance and recordkeeping standards designed to protect the public interest and investors.

Section 17A(d)(1)(A) of the Act, in general, prohibits any registered agent from engaging in any transfer agent activity in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. In addition, subsection 17(a)(1) and (3) of the Act, in essence, require every registered transfer agent to file reports as the Commission or other appropriate regulatory agencies (“ARAs”) as defined in section 3(a)(34)(B) of the Act for the transfer agent, by rule, prescribe as necessary or appropriate in furtherance of the purposes of the Act.

In order to provide an early warning system designed to alert the ARA that a registered transfer agent is not meeting the performance standards set forth in the Commission’s rules regarding registered transfer agents, the Commission pursuant to sections 2, 17, 17A, and 23(a) of the Act, 15 U.S.C. §§ 78b, 78q, 78q-1, and 78w(a), adopted rules 17Ad-2(c), (d), and (h) on June 16, 1978. Rules 17Ad-2(a), (d), and (h) enable those agencies to take timely preventive and remedial measures to protect the public interest and investors. Similarly, the Commission also adopted Rule 17Ad-3(b) in order to provide issuers with the same or similar early warning system designed to alert the issuer of their transfer agent’s failure to meet the minimum performance standards set forth in the Commission’s rules.

Rule 17Ad-3(b) requires a registered transfer agent to send a copy of the notice required pursuant to Rule 17Ad-2(c), (d), and (h) to all the issuers for whom that transfer agent acts when for each of two consecutive months the transfer agent has failed to turnaround at least 75% of all routine items in accordance with the requirements of Rule 17Ad-2(a) or to process at least 75% of all items in accordance with the requirements of Rule 17Ad-2(b). The transfer agent is required to send the notice within twenty business

days after the close of the second month to the chief executive officer of each issuer for which such registered transfer agent acts.

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

The issuer uses the information contained in the notices in several ways: (1) to provide an early warning to the registered transfer agent and the issuer of the transfer agent's non-compliance with the Commission's minimum performance standards regarding registered transfer agents; and (2) to assure that issuers are aware of certain problems and poor performances with respect to the transfer agents that are servicing the issuer's issues. If the issuer does not receive notice of a registered transfer agent's failure to comply with the Commission's minimum performance standards, then the issuer will be unable to take remedial action to correct the problem or to find another registered transfer agent.

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

Not applicable.

4. Efforts to Identify Duplication

Not applicable; there is no duplication of information.

5. Effects on Small Entities

For purposes of the Regulatory Flexibility Act, a transfer agent is considered a small business or entity if it: (i) receives less than 500 items for transfer and less than 500 items for processing during the preceding six months; (ii) transfers items only of issuers that would be deemed small businesses or small organizations; (iii) maintains master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year; and (iv) is not affiliated with any person that is not a small business or small organization. These transfer agents are exempt from the provisions of Rule 17Ad-3(b).

6. Consequences of Less Frequent Collection

If the information were collected less frequently, effective regulation of transfer agent conduct and activity would not be possible. Specifically, the transfer agent rules and regulations are designed to assure the continuous prompt processing of securities presented for transfer. If this information is provided less often, issuers could not properly assure that transfer agents promptly process all securities presented for transfer.

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

Not applicable. The collection is not conducted in a manner inconsistent with 5 CFR § 1320.6.

8. Consultations Outside the Agency

With regard to Rule 17Ad-3(b), the Commission consistently has consulted with persons outside the agency. The rule was published for public comment and the Commission commonly consults with other regulatory bodies that have indirect or direct regulatory authority over the persons or entities affected by Rule 17Ad-3(b).

9. Payment or Gift to Respondents

Not applicable.

10. Assurances of Confidentiality

The Commission has no control over the confidentiality of the notice required to be sent to the registered transfer agent's issuers.

11. Sensitive Questions

Not applicable; such information is not collected.

12. Estimate of Respondent Reporting Burden

The estimated annual cost to respondents is minimal. The Commission receives annually approximately eight to twelve notices from registered transfer agents pursuant to Rule 17Ad-2(c), (d), and (h). Pursuant to Rule 17Ad-3(b), a transfer agent that has already filed a Notice of Non-Compliance with the Commission pursuant to Rule 17Ad-2 will only be required to send a copy of that notice to issuers for whom it processes when that transfer agent fails to turnaround 75% of all routine items or to process 75% of all items. The Commission estimates that of the transfer agents that file the Notice of Non-Compliance, only two agents will meet the requirements of Rule 17Ad-3(b), and such transfer agents are simply sending a copy of a form that had already been processed of the Commission.

This third party disclosure requirement will take each respondent approximately one hour to complete, for a total annual estimate burden of two hours. The Commission estimates a cost of approximately \$60.00 for each hour; therefore, each year transfer agents spend approximately two hours and \$120.00 complying with the provisions of the rule.

13. Estimate of Total Annualized Cost Burden

Not applicable: (a) it is not anticipated that respondents will have to incur any capital and start up cost to comply with the rule, and (b) it is not anticipated that the respondents will have to incur any additional operational or maintenance cost (other than provided for in item no. 12) to comply with the rule.

14. Estimate of Cost to Federal Government

Not applicable. The notice requirement under the rule is a third party notice.

15. Explanation of Changes in Burden

There are no changes in the burden.

16. Information Collections Planned for Statistical Purposes

Not applicable. The notice required under the rule is a third party notice.

17. Explanation as to Why Expiration Date will not be Displayed

Not applicable.

18. Exceptions to Certification

Not applicable. No exceptions to certification apply.

B. Collection of Information Employing Statistical Methods

The collection of information does not employ statistical methods.