Rule 15c2-1

Supporting Statement

A. Justification

1. Necessity of Information Collection

The Commission adopted Rule 15c2-1[1] together with Rule 8c-1[2] in 1940 to implement Section 8(c) of the Securities Exchange Act of 1934 ("Exchange Act").[3] Exchange Act Section 8(c) addresses the pledging of customer securities by a broker-dealer as collateral for a loan (the "hypothecation" of the securities) and prohibits broker-dealers from: commingling the securities of different customers as collateral for a loan without the written consent of each customer; commingling customer securities with securities owned by the broker-dealer as collateral for a loan; or pledging customer securities for more than the total amount that all customers owe the broker-dealer on the securities (the "aggregate indebtedness" of the customers with respect to the securities). Rule 15c2-1, like Rule 8c-1, was adopted to furnish added protection to customers against losses which may result from broker-dealer failures. To this end, the two rules, in effect, prohibit brokers and dealers from risking the securities of their customers as collateral to finance their own trading, speculating or underwriting ventures

As adopted, Rule 15c2-1 prohibits, with certain exemptions, the commingling under the same lien of securities of margin customers (a) with other customers without their written consent and (b) with the broker or dealer. The rule also prohibits the rehypothecation of customers' margin securities for a sum in excess of the customer's aggregate indebtedness.[4]

The Commission is statutorily authorized by Section 15(c)(2) of the Exchange Act to adopt rules and regulations that define and prescribe means reasonably designed to prevent such acts and practices as are fraudulent, deceptive, or manipulative. Further statutory authority is found in Section 23(a) of the Exchange Act.

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

The information required by the Rule is necessary for the execution of the Commission's mandate under the Exchange Act to prevent fraudulent, manipulative, and deceptive acts and practices by broker-dealers. In addition, the information required by the Rule provides important investor protections.

---

[1] 17 CFR 240.15c2-1.

[2] 17 CFR 240.8c-1.

[3] See Securities and Exchange Act of 1934 Release No. 2690 (November 15, 1940), 1940 SEC Lexis 1529, 11 FR 10982. Rules 8c-1 and 15c2-1 were amended in 1971 to expand a limited exemption from the rules for the loans of clearing corporations of registered national securities associations. Securities Exchange Act of 1934 Release No. 9428 (December 29, 1971), 1971 SEC Lexis 250.

[4] Id.

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

The compilation of this information must be done on an individual basis for each potential lender. Thus, improved information technology would not reduce the burden.

4. Efforts to Identify Duplication

Not applicable; although Rule 8c-1 under the Exchange Act requires similar information, no rule prohibits combining the notices and consents under both Rules 8c-1 and 15c2-1 in the same documents.

5. Effects on Small Entities

The Rule is not unduly burdensome on smaller broker-dealers.

6. Consequences of Less Frequent Collection

The information is collected as each transaction warrants and, therefore, there is no way to require less frequent collection without undermining the purposes of the Rule.

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

The information collection is not conducted in a manner that is inconsistent with 5 CFR 1320.5(d)(2).

8. Consultations Outside the Agency

Before adoption, Commission rules are published for notice and comment.

9. Payment or Gift to Respondents

Not applicable.

10. Assurances of Confidentiality

No assurances of confidentiality are provided in the statute or the Rule.

11. Sensitive Questions

Not applicable; no information of a sensitive nature is required under the Rule.

12. Estimate of Respondent Reporting Burden

Only firms that carry customer accounts can pledge customer securities as collateral for bank

loans. According to an analysis of FOCUS Report filings by the Commission's Office of Economic Analysis, there are approximately 126 broker-dealers that filed Part II of the FOCUS Report (firms that carry customer accounts or clear transactions) and that had bank loans at the end of the first quarter of 2008. The Commission previously estimated that 145 broker-dealers carried customer accounts and had bank loans.

Under Rule 15c2-1 a broker-dealer cannot commingle the securities of different customers as collateral for a loan without the written consent of each customer. Rule 15c2-1(f) provides that when a broker-dealer hypothecates customer securities, it must give written notice to the lender that the securities are customer securities and that the hypothecation does not contravene any section of the Rule. If the account is an omnibus account, the broker-dealer for whom the account is carried may furnish a statement to the person carrying the account that all the securities are customer securities and that the hypothecation does not contravene any section of the Rule.

It is difficult to make a meaningful estimate of the reporting burden on respondents because of the variation in size of broker-dealers subject to the Rule. For example, the amount of time required to comply with the Rule will vary depending on the amount of customer securities hypothecated by the broker-dealer. For each hypothecation, Commission staff estimates that it takes an average of approximately 10 minutes to create and send a notice of hypothecation to the pledgee in accordance with the Rule and an average of approximately 20 minutes to request and process consents from customers to permit commingling of customer accounts under the same lien, for a total of 30 minutes. The staff also estimates that the respondent broker-dealers hypothecate customer securities an average of 45 times per year. The total annual compliance burden is therefore approximately 2835 hours (126 x 45 x .5 = 2835).

13. Estimate of Total Annualized Cost Burden

Respondents will not incur any capital, start up, operational, or maintenance costs to comply with the Rule.

14. Estimate of Cost to the Federal Government

Not applicable. Respondent broker-dealers maintain the records required by this Rule.

15. Explanation of Changes in Burden

Changes in burden are due to a change in the estimated number of respondents.

16. Information Collections 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 the accuracy of results.