

Rule 17Ad-16

A. Justification

(1) Necessity for Information Collection

In response to the “paperwork crisis” that occurred in the late 1960s when the number of securities transactions exceeded the securities industry’s capacity to process those transactions, Congress enacted the Securities Acts Amendments of 1975.¹ This amendment added a new Section 17A to the Securities Exchange Act of 1934 (“Exchange Act”), which directed the Commission to establish a national system for the prompt and accurate clearance and settlement of securities transactions. This included a new regulatory system for the transfer agent industry by requiring transfer agents to meet minimum performance standards as established by the Commission in furtherance of the purposes of the Exchange Act.

Transfer agents play an integral role in the national system for the clearance and settlement of securities transactions. Transfer agents cancel certificates presented for transfer, issue new certificates to the transferee, and record the change of record ownership of securities on the issuer’s securityholder records. They also prepare, maintain, and certify securityholder records, disburse dividend and interest payments, and mail security-owner communications such as proxy material and annual reports to shareholders.

To the extent that transfer agents fail to perform their activities promptly and accurately, the entire clearance, settlement, and transfer process suffers. For example, substandard performance by transfer agents can affect the accuracy of an issuer’s securityholder records and therefore could disrupt communication between issuers and securityholder. Moreover, poor performance by transfer agents could systemically affect issuers, broker-dealers, banks, other financial intermediaries, the investing public, and the securities markets.

The Commission adopted Rule 17Ad-16 in 1994 to address the problem of certificate transfer delays caused by transfer requests that are directed to the wrong transfer agent or the wrong address.² Transfer delays can potentially cause acute problems for registered securities depositories, which hold a large number of certificates for safekeeping and have a large daily volume of certificate transfers. The rule addresses the problems by requiring transfer agents to provide written notice to a qualified registered securities depository when assuming or terminating transfer agent services on behalf of an issuer or when changing its name or address.³

¹ Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

² Securities Exchange Act Release No. 35039 (Dec. 1, 1994), 59 FR 63656 (Dec. 8, 1994).

³ The Commission has designated The Depository Trust Company as the appropriate qualified registered securities depository. Securities Exchange Act Release No. 35378 (Feb. 15, 1995), 60 FR 9875 (Feb. 22, 1995).

(2) Purposes of, and Consequences of Not Requiring, the Information Collection

The notices required to be sent to appropriate qualified registered securities depositories provide to the depositories current information regarding where to send transfer instructions. Accurate transfer agent information reduces the number of transfer delays caused by imprecise transfer agent information.

(3) Role of Improved Information Technology and Obstacles to Reducing Burden

There are no legal or technical obstacles that, if removed, would reduce burdens.

(4) Efforts to Identify Duplication

No other reporting requirement currently exists with respect to the information required to be reported under the rule.

(5) Effects on Small Entities

Because the information required to complete Rule 17Ad-16 notices is generated by and is readily available to transfer agents, any collection burden for small businesses is minimal.

(6) Consequences of Less Frequent Collection

Less frequent reporting under the rule would deprive registered securities depositories of current information regarding the issuers a transfer agent services and the name and address of transfer agents that have changed their name or address. That situation would increase the number of transfer delays, risk of loss of certificates, and personnel and operational costs.

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

The collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

(8) Consultation Outside Agency

In the course of adopting Rule 17Ad-16 in 1994, the Commission communicated with, and requested the views of, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation. The Commission communicates on a continuous basis with these organizations and has not received any indication of any major problems with Rule 17Ad-16. The Commission also communicates with many registered transfer agents on a continuous basis and has not discovered any major problems with Rule 17Ad-16.

(9) Payment of Gift to Respondents

Not applicable.

(10) Assurances of Confidentiality

This rule does not involve the collection of confidential information.

(11) Sensitive Questions

No questions of a sensitive nature are asked.

(12) Estimate of Respondent Reporting Burden

We estimate that the transfer agent industry submits approximately 3,000 Rule 17Ad-16 notices to appropriate qualified registered securities depositories per year. The staff estimates that the average amount of time necessary to create and submit each notice is approximately 15 minutes per notice. Accordingly, the estimated total industry burden is 750 hours per year (15 minutes multiplied by 3,000 notices filed annually).

(13) Estimate of Total Annualized Cost Burden

Because the information needed by transfer agents to properly notify the appropriate registered securities depository is readily available to them and the report is simple and straightforward, the cost is relatively minimal. The average cost to prepare and send a notice is approximately \$7.50 (15 minutes at \$30 per hour). This yields an industry-wide cost estimate of \$22,500 (3,000 notices multiplied by \$7.50 per notice).

(14) Estimate of Cost to the Federal Government

The cost to the federal government to administer Rule 17Ad-16 is generally minimal. First, the rule requires the transfer agents to maintain copies of the notices; the federal government does not collect them. The notices, however, are only produced to the government as requested during transfer agent examinations if and when an issue arises. Accordingly, the cost to the federal government results from appropriate regulatory agency staff time and related overhead cost devoted to answering phone and written questions regarding the rule as well as an examination of transfer agent and clearing agency records in the event of an issue arising. Because the rule is simple and straightforward in its application, the staff does not receive a substantial number of inquiries. Furthermore, the number of issues arising where Rule 17Ad-16 is implicated is very low. Hence, the Commission staff estimates that approximately five hours of staff time per year will be devoted to answering questions or resolving Rule 17Ad-16 notice issues. If staff time and relevant overhead expenses are estimated at \$100 per hour, the total annual cost to the federal government is \$500 per year.

This estimate was computed according to the guidelines set forth in GSA, Guide to Estimating Reporting Costs (1973).

(15) Explanation of Changes in Burden

The change in burden estimate is based on an updated estimate by the primary U.S. securities depository, The Depository Trust Company (“DTC”). DTC estimated the number of Rule 17Ad-16 notices it receives on an annual basis since 2006 and reported this number to the Commission’s staff in order for the staff to prepare this supporting statement.

(16) Information Collection 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

No statistical methods are employed in connection with the collections of information.