

## **Rule 10b-10 Supporting Statement**

### A. Justification

#### 1. Necessity for Information Collection

Rule 10b-10 under the Securities Exchange Act of 1934 (“Exchange Act”) requires broker-dealers to disclose basic trade information to customers regarding their securities transactions. The information required by rule 10b-10 includes: the date and time of the transaction, the identity and number of shares bought or sold, and the trading capacity of the broker-dealer. In addition, depending on the trading capacity of the broker-dealer, the Rule requires the disclosure of commissions and, under specified circumstances, mark-up and mark-down information. For transactions in debt securities (other than U.S. savings bonds and municipal securities) the Rule requires the disclosure of redemption and yield information. For transactions in securities futures products in a futures account, the Rule permits alternative information disclosure requirements. This alternative information includes, the date the transaction was executed; the identity and number of shares bought or sold; the price, the delivery month, and the exchange on which the transaction was executed; the source and amount of broker remuneration; whether the broker received payment for order flow; and, the fact that other specified information about the execution of the transaction will be available upon written request.

Rule 10b-10 also requires broker-dealers to inform their customers if they are not members of the Securities Investor Protection Corporation (“SIPC”). The purpose of this disclosure is to ensure that customers are not led to believe that their accounts are subject to SIPC protection when they are not. In addition, the Rule requires broker-dealers to state on confirmations whether they receive payment for order flow.

The confirmation has become a customary tool in the industry, and it serves several functions: firms use it as a billing statement; it serves as a customer invoice; it informs customers of the details of a transaction allowing them to check for errors or misunderstandings; it provides consumer information, allowing investors to evaluate the cost and quality of the services provided by broker-dealers; it discloses possible conflicts of interest that may arise between the investor and broker-dealer; and it safeguards against fraud, by helping the customer to detect problems associated with a transaction.

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

The purpose of Rule 10b-10 is to ensure that investors are given the necessary information to evaluate their securities transactions and the broker-dealers effecting those transactions. In the absence of the rule's requirements, investors may not be fully informed of important information relating to their securities transactions.

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

Most customer confirmations are generated by automated systems, which allow confirmations to be generated in a fraction of the time it would take to generate a confirmation manually.

4. Efforts to Identify Duplication

Not applicable; there is no duplication of information.

5. Effects on Small Entities

The requirements of Rule 10b-10 are not unduly burdensome on smaller broker-dealers.

6. Consequences of Less Frequent Collection

One of the primary purposes of Rule 10b-10 is to provide customers with immediate written notification of their securities transactions so that they can monitor the trading activity in their accounts. Less frequent dissemination of trade information to customers would substantially lessen the rule's investor protection functions.

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. Consultation Outside the Agency

Not applicable.

9. Payment of Gift to Respondents

Not applicable.

10. Assurance of Confidentiality

Not applicable.

11. Sensitive Questions

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

12. Estimate of Respondent Reporting Burden

Rule 10b-10 potentially applies to all of the approximately 5,178 broker-dealers registered with the Securities and Exchange Commission that effect transactions for customers. It is important to note, however, that the confirmation is a customary document used by the industry for business reasons and is a matter of good business practices.

Based on information provided by registered broker-dealers to the Commission in FOCUS Reports, the Commission staff estimates that on average, registered broker-dealers process approximately 1.4 billion order tickets per month for transactions on behalf of customers. Each order ticket representing a transaction effected on behalf of a customer results in one confirmation. Therefore, the Commission staff estimates that approximately 16.8 billion confirmations<sup>1</sup> are sent to customers annually.

The Commission staff estimates from information provided by industry participants that it takes about one minute to generate and send a confirmation. As a result, the Commission staff estimates that the annual burden to brokers-dealers to comply with the confirmation delivery requirements of Rule 10b-10 would be 280 million hours.<sup>2</sup> The number of confirmations sent and the cost of the confirmations vary from firm to firm as smaller firms send fewer confirmations than larger firms because they effect fewer transactions.

13. Estimate of Total Annualized Cost Burden

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<sup>1</sup> (1.4 billion confirmations/month x 12 months/year = 16.8 billion confirmations.)

<sup>2</sup> (16.8 billion confirmations at one minute per confirmation = 16.8 billion minutes; 16.8 billion minutes/60 minutes per hour = 280 million hours.)

Since 1996, the Commission has permitted broker-dealers to comply with Rule 10b-10 by means of electronic communications. Informal discussions with securities industry representatives as well as exemptive and no-action letters issued in this area lead us to believe that broker-dealers use electronic confirmations as their sole confirmations for approximately 25 percent of transactions. For the remaining 75 percent of transactions, we believe that broker-dealers continue to send paper confirmations.

The Commission staff calculates that, as a result, approximately 12,600,000,000 paper confirmations are mailed to customers each year.<sup>3</sup> According to information previously provided by industry participants, the Commission staff estimates that the average cost for paper confirmations, including postage, for a one-page confirmation is 96 cents.<sup>4</sup> Based on these calculations, the Commission staff estimates that the total annual cost associated with generating and mailing paper confirmations would be \$12,096,000,000.<sup>5</sup>

As explained above, the Commission staff estimates that approximately 25 percent of confirmations generated are sent by electronic means alone. This means that approximately 4,200,000,000 wholly electronic confirmations are sent each year.<sup>6</sup> The Commission staff estimates that the cost of each wholly electronic confirmation is 52 cents.<sup>7</sup> Based on these calculations, the Commission staff estimates that the total annual cost associated with generating and sending wholly electronic confirmations is \$2,184,000,000.<sup>8</sup>

Based upon discussions with industry participants, the Commission staff estimates that the total annual cost associated with generating and

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<sup>3</sup> (75 percent of 16.8 billion is 12,600,000,000.)

<sup>4</sup> This estimate includes the increase in price of First Class stamps to 44 cents that went into effect on May 1, 2009.

<sup>5</sup> (12,600,000,000 paper confirmations at 96 cents a confirmation equals \$12,096,000,000.)

<sup>6</sup> (25 percent of 16.8 billion is 4,200,00,000.)

<sup>7</sup> (96 cents minus the cost of a 44 cent stamp.)

<sup>8</sup> (4,200,000,000 confirmations at 52 cents a confirmation equals \$2,184,000,000.)

delivering to investors the information required under Rule 10b-10 would be \$14,280,000,000.<sup>9</sup>

14. Estimate of Cost to the Federal Government

Rule 10b-10 does not require that any documents be submitted to the federal government, thus no costs to the federal government are imposed directly by the Rule. Costs to the federal government are attributable to ensuring compliance with and enforcing the Rule. The cost to the federal government attributable to the operation of Rule 10b-10 is estimated at \$20,000 per year (500 reviews at one hour at a cost of \$40.00 per hour, including overhead). It should be noted that the Financial Industry Regulatory Authority, Inc conducts its own examinations to determine compliance with confirmation rules.

15. Explanation of Changes in Burden

The Commission staff has changed its estimate of burden because since the last time that order tickets were compiled to create our calculation, the volume of securities transactions has increased substantially. For example, in 2005, the last year that the burden was calculated, information derived from FOCUS Reports indicated that registered broker-dealers processed approximately 387 million order tickets per month for transactions on behalf of customers. By contrast, in 2008, FOCUS Report data indicates that broker-dealers processed approximately 1.4 billion order tickets per month. Commission staff believes that these figures are attributable to the substantial increase in securities transactions leading up to 2008.

16. Information Collections 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

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<sup>9</sup> (\$3,803,436,000 plus \$241,488,000 equals \$4,044,924,000.)

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