

PAPERWORK REDUCTION ACT SUPPORTING STATEMENT

Form BD; Rule 15b1-1

A. Justification.

1. Necessity for Information Collection.

The Securities Exchange Act of 1934 (“Exchange Act”) regulates the nation’s securities markets and the securities professionals who participate in those markets.

Under the Exchange Act, broker-dealers must register with the Securities and Exchange Commission (“Commission”). Section 15(a)(1) of the Exchange Act provides that it is unlawful for broker-dealers to solicit or effect transactions in most securities unless they are registered as broker-dealers with the Commission pursuant to Section 15(b) of the Exchange Act. Section 15B(a)(1) of the Exchange Act also provides that it is unlawful for municipal securities dealers, other than registered broker-dealers, to solicit or effect transactions in municipal securities unless they are registered with the Commission as municipal securities dealers pursuant to Section 15B(a)(2) of the Exchange Act. In addition, Section 15C(a)(1) of the Exchange Act provides that it is unlawful for government securities broker-dealers, other than registered broker-dealers and certain financial institutions, to solicit or effect transactions in government securities unless they are registered as government securities broker-dealers with the Commission pursuant to Section 15C(a)(2) of the Exchange Act.

Sections 15(b)(1) and (2) of the Exchange Act authorize the Commission to prescribe by rule an application form for registration that contains such information about broker-dealers that is necessary or appropriate in the public interest or for the protection of investors. Section 17(a)(1) of the Exchange Act authorizes the Commission to require registered broker-dealers and registered municipal securities dealers to make and file such reports as the Commission determines as necessary or appropriate in the public interest or for the protection of investors.

To implement these provisions, the Commission adopted Form BD (17 C.F.R. 249.501), the uniform application for broker-dealer registration. Form BD requires the applicant or registrant filing the form to provide the Commission with certain information concerning the nature of its business and the background of its principals, controlling persons, and employees. Form BD is designed to permit the Commission to determine whether the applicant meets the statutory requirements to engage in the securities business.

In 1981, the Central Registration Depository (“CRD”) was created as a cooperative effort between the National Association of Securities Dealers¹ and the North American Securities Administration Association (“NASAA”), in order to facilitate a “one stop” filing process for broker-dealers and their associated persons (i.e., only one form had to be filed with the CRD to satisfy FINRA and participating state registration requirements). The CRD is operated and maintained by FINRA and is used by the Commission (since 1992),² self-regulatory organizations (or “SROs”),³ and state securities regulators in connection with registering and licensing broker-dealers and their associated persons.

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

The Commission uses the information disclosed by applicants in Form BD: (1) to determine whether the applicant meets the standards for registration set forth in the provisions of the Exchange Act; (2) to develop a central information resource where members of the public may obtain relevant, up-to-date information about broker-dealers, municipal securities dealers, and government securities broker-dealers, and where the Commission, other regulators, and SROs may obtain information for investigatory purposes in connection with securities litigation; and (3) to develop statistical information about broker-dealers, municipal securities dealers, and government securities broker-dealers. Without the information disclosed in Form BD, the Commission could not effectively implement policy objectives of the Exchange Act with respect to its investor protection function.

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

Broker-dealer applicants currently file Form BD electronically with FINRA. FINRA then provides the Commission with access to the CRD system and provides certain reports to the Commission, as requested. This method of collecting information reduces the regulatory burden upon broker-dealers by permitting them to file applications for registration and amendments thereto once and electronically, rather than requiring the broker-dealer to file multiple applications for registration and amendments separately with the Commission, SROs, and state regulators.

4. Efforts to Identify Duplication.

As noted above, broker-dealer applicants use Form BD to register with the Commission, the states, and certain SROs. By filing Form BD in one central location, the Commission provides “one stop” filing for applicants, so that they are not required to file multiple copies of Form BD. The requirements to disclose information in Form BD do not duplicate any other federal statute or rule.

¹ The National Association of Securities Dealers merged New York Stock Exchange Member Regulation to form the Financial Industry Regulatory Authority (or “FINRA”) on July 30, 2007. For the sake of clarity, as used herein the term “FINRA” will be used to identify both FINRA and its predecessor, the National Association of Securities Dealers.

² Securities Exchange Act Release No. 31660 (Dec. 28, 1992), 58 FR 11.

³ The SROs include FINRA, the Chicago Board Options Exchange, the Pacific Stock Exchange, and various other entities.

5. Effect on Small Entities.

On 3/1/2010, 5,163 broker-dealers registered with the Commission.⁴ As of December 31, 2008 there were 890 small broker-dealers.⁵

All broker-dealers, regardless of size, are required to disclose the information requested in Form BD. Therefore, the proposed amendment to Form BD will affect small broker-dealers registered or registering with the Commission. The Commission believes, however, that the disclosure requirements of Form BD are not unduly burdensome, particularly in relation to the important objectives served by the disclosure of registration information.

6. Consequences of Less Frequent Collection.

Broker-dealer applicants generally are required to file Form BD only once to register and are required to file amendments to Form BD only when information originally reported in Form BD changes or becomes inaccurate. Therefore, less frequent collection for Form BD information would impair the accuracy of the information available to the Commission and decrease the protections afforded investors.

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

This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultations Outside the Agency.

Not applicable.

9. Payment or Gift to Respondents.

Not applicable.

10. Assurance of Confidentiality.

The information provided on Form BD is not confidential, and is available to the public.

11. Sensitive Questions.

Not applicable.

12. Estimate of Respondent Reporting Burden.

Based on the number of initial applications on Form BD the Commission received from 10/1/2004 through 9/30/2009, Commission staff estimates that the Commission will receive approximately 341 applications on Form BD.⁶ While it is likely that the time necessary to complete Form BD will vary depending on the nature and complexity of the entity's business, Commission staff has

⁴ Based on Form BD data.

⁵ Based on data provided to the Commission through Forms X-17A-5.

previously estimated that the average time necessary for a broker-dealer to complete and file an application for broker-dealer registration on Form BD would be approximately 2.75 hours, and that estimate has been subject to notice and comment.⁷ Consequently, Commission staff estimates that total annual burden hours required for all firms to complete and file applications for broker-dealer registration on Form BD is approximately 938 hours (2.75 x 341).

Once registered, a broker-dealer must file an amended Form BD when information it originally reported on Form BD changes or becomes inaccurate. Commission staff has previously estimated that the average time necessary to complete an amended Form BD would be approximately 20 minutes, and that estimate has been subject to notice and comment.⁸ Based on the number of amended Forms BD the Commission received from 10/1/2004 through 9/30/2009, Commission staff estimates that the total number of amendments that the Commission will receive on Form BD would be approximately 17,764.⁹ Therefore, Commission staff estimates that the total annual burden hours necessary for broker-dealers to complete and file amended Forms BD is approximately 5,862 hours (17,764 amended Forms BD per year x 0.33 hours per amendment).

Thus, the Commission estimates that the total annual filing burden for applications and amendments filed with the Commission on Form BD is approximately 6,800 hours (938 + 5,862).

The staff believes that a broker-dealer would have a Compliance Manager complete and file both applications and amendments on Form BD, at \$294/hour.¹⁰ Consequently, the staff estimates that the total cost of these burden hours for all broker-dealers is approximately \$1,999,200 each year.

13. Estimates of Total Annualized Cost Burden

It is not anticipated that respondents will have to incur any capital and start-up costs, nor any additional operational or maintenance costs (other than as provided in Item 12), to comply with the collection of information.

⁶ The Commission generally classifies Form BD data based on the Federal government's fiscal year, from October 1 through September 30. The Commission received 412, 335, 288, 313, and 359 broker-dealer applications on Form BD during the fiscal years ending 2005, 2006, 2007, 2008 and 2009, respectively. $341 = (412 + 335 + 288 + 313 + 359) / 5$ years.

⁷ Securities Exchange Act Release No. 41594 (July 2, 1999), 64 FR 37586.

⁸ *Id.*

⁹ *See supra*, footnote 5. The Commission received 20,666, 17,839, 16,702, 16,365, and 17,247 amended Forms BD during the fiscal years ending 2005, 2006, 2007, 2008 and 2009, respectively. $17,764 = (20,666 + 17,839 + 16,702 + 16,365 + 17,247) / 5$ years.

¹⁰ \$294 per hour figure for a Compliance Manager is from the Securities Industry and Financial Markets Association's publication titled *Management & Professional Earnings in the Securities Industry 2009*, as modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

14. Estimate of Cost to Federal Government.

Commission staff estimates that the review and processing of a broker-dealer application filed on Form BD requires approximately 2 hours of staff time. Thus, estimating staff time and related overhead at \$75 per hour, the cost to the Federal government in connection with review and processing of broker-dealer applications filed on Form BD is approximately \$51,150 (341 hours x 2 years x \$75). With respect to amended Forms BD, the staff estimates that it requires approximately 1 hour of staff time to review and process the filings. Thus, the cost to the Federal government related to the review and processing of amended Forms BD is approximately \$1,332,300 (17,764 hours x 1 year x \$75). In sum, the total cost to the government for reviewing and processing broker-dealer applications and amendments filed on Form BD is approximately \$1,383,450 (\$51,150 + \$1,332,300).¹¹

15. Explanation of Changes in Burden.

The staff understands that although the Justification filed in 2007 included changes to the burden hour estimates, the related information submitted at the same time failed to include those changes. Consequently, the number of respondents, hour burden, and cost burden presently approved reflect the data provided in 2004 and not 2007. Thus, the changes in the number of respondents, hour burden, and cost burden described below, reflect both a correction of the numbers to reflect the changes that should have been made in 2007, along with changes that reflect adjustments in the agency's estimates from 2007 to 2010.

From 2004 to 2007, the Commission staff's estimated total annual filing burden for applications filed on Form BD and Form BD amendments decreased by 1,442 hours (8,250 - 6,808 hours) due to a decrease in the estimated number of applications and amendments the staff projected broker-dealers would file on Form BD.¹² Further, the Commission staff's estimated total annualized cost to the Federal government associated with reviewing and processing applications and amendments filed by broker-dealers on Form BD decreased by approximately \$201,825 (\$1,590,000 - \$1,388,175) due to a change in the estimated number of applications and amendments the staff projected broker-dealers would file on Form BD.

From 2007 to 2010, the Commission staff's estimated total annual filing burden for applications filed on Form BD and Form BD amendments decreased by approximately 8 hours (6,808 - 6,800 hours) due to a change in the estimated number of applications and amendments the staff projects broker-dealers will file on Form BD. Further, the Commission staff's estimated total annualized cost to the Federal government associated with reviewing and processing applications and amendments filed by broker-dealers on Form BD decreased by

¹¹ The cost burden estimates in this submission have been computed according to the guidelines set forth in GSA, Guide to Estimating Reporting Costs (1973). Accordingly, the Commission staff has valued related overhead at 35 percent of the value of the combined salaries of the aforementioned participants.

¹² From 600 applications and 20,000 amendments in the 2004 PRA Justification to 335 applications and 17,839 amendments in the 2007 PRA Justification. The number of broker-dealer respondents in 2004 was approximately 7,500, however the number of broker-dealer respondents decreased to approximately 5,000 in 2007.

approximately \$4,725 (\$1,388,175 - \$1,383,450) due to a change in the estimated number of applications and amendments the staff projects broker-dealers will file on Form BD.

In sum, the Commission staff estimates that the change in the total annual filing burden for Form BD and Form BD amendments from the burden currently approved to the staff's current estimates is approximately 1,450 hours (8,250 - 6,800). Further, the Commission staff estimates that the change in total annualized cost to the Federal government associated with reviewing and processing applications and amendments filed by broker-dealers on Form BD from the cost currently approved to the staff's current estimates is approximately \$206,550 (\$1,590,000 - \$1,383,450).

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.

Not applicable. The collection of information on Form BD does not employ statistical methods.