

SUPPORTING STATEMENT
For the Paperwork Reduction Act
Current Information Collection Submission for
“Rule 15c2-11”

A. Justification

1. Necessity of Information Collection

On September 13, 1971, effective December 13, 1971 (see 36 FR 18641, September 18, 1971), the Commission adopted Rule 15c2-11 (17 CFR 240.15c2-11) (“Rule 15c2-11” or “Rule”) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (“Exchange Act”) to regulate the initiation or resumption of quotations in a quotation medium by a broker-dealer for over-the-counter (“OTC”) securities. The Rule was designed primarily to prevent certain manipulative and fraudulent trading schemes that had arisen in connection with the distribution and trading of unregistered securities issued by shell companies or other companies having outstanding but infrequently traded securities. Subject to certain exceptions, the Rule prohibits brokers-dealers from publishing a quotation for a security, or submitting a quotation for publication, in a quotation medium unless they have reviewed specified information concerning the security and the issuer. This information review requirement is intended to have a broker-dealer give some measure of attention to financial and other information about an issuer before it initiates or resumes quotations for that issuer’s securities. Pursuant to subsection (c) of the Rule, the documents and information required by Rule 15c2-11 must be preserved by the broker-dealer for a period of not less than three years.

Generally, Rule 15c2-11 applies to broker-dealers that initiate or resume publication of quotations of securities that are not listed and traded on a national securities exchange (“covered OTC securities”). Most covered OTC securities are quoted in the OTC Bulletin Board, which is operated by the Financial Industry Regulatory Authority, Inc. (“FINRA”) or in the OTC Link (formerly the “Pink Sheets”) operated by OTC Markets Group, Inc. Certain exceptions, however, exempt broker-dealers from having to satisfy the Rule’s information review and retention requirements. For example, the “piggyback” exception in Rule 15c2-11(f)(3) allows broker-dealers to publish or submit a quotation in an interdealer quotation system for a covered OTC security that is already the subject of quotations with a specified frequency without having to fulfill the Rule’s information review and retention requirements.

Rule 15c2-11 does not require that broker-dealers submit to the Commission the information collected pursuant to the Rule. Rule 15c2-11(d)(1) does, however, require the broker-dealer submitting the quotation to furnish to the interdealer quotation system, at least three days before the quotation is published or submitted, the information regarding the security and the issuer which the broker-dealer is required to maintain. Furthermore, FINRA Rule 6432 prohibits a member from initiating or resuming the quotation of covered OTC securities in a quotation medium unless the member has demonstrated compliance with the requirements of Rule 15c2-11 pertaining to the review and maintenance of information

about the security and the issuer. To demonstrate compliance with FINRA Rule 6432 and Rule 15c2-11, a member must file with FINRA a Form 211, in the form required by, FINRA, at least three business days before the quotation is published or displayed. Once a broker-dealer has filed a Form 211 with respect to a security, and that Form 211 is cleared by FINRA, the security may become “piggyback eligible” provided the quoting activity meets the requirements of Rule 15c2-11(f)(3).

The Commission is statutorily authorized by Section 15(c)(2) of the Exchange Act, 15 U.S.C. 78o(c)(2), 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, 15 U.S.C. 78w.

2. Purpose and Use of the Information Collection

The security and issuer information required by Rule 15c2-11 is to be reviewed and maintained by broker-dealers publishing or submitting quotations in a quotation medium. This review protects investors by preventing fraudulent and manipulative quotations. Broker-dealers would not be required to collect and maintain this information but for the Rule.

3. Consideration Given to Information

The increased use and availability of computers and the Internet will likely reduce the burdens created by Rule 15c2-11. The availability of financial and other information of reporting issuers over the Commission’s EDGAR system, which is available via the Internet, also reduces the burdens associated with Rule 15c2-11 compliance.

4. Duplication

The requirements of Rule 15c2-11 are not duplicated elsewhere. In certain circumstances, information specified in the Rule must also be produced by issuers pursuant to the issuer filing regulations under the Exchange Act, or in order to assist broker-dealers to comply with their regulatory requirements, *i.e.*, suitability standards of the Commission or the self-regulatory organizations. Rule 15c2-11 requirements generally conform to obligations imposed by other statutory or regulatory provisions.

5. Effect on Small Entities

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

6. Consequences of Not Conducting Collection

Since the information required by the Rule is only collected when a broker-dealer is initiating or resuming quotations for a particular security, it is not possible to reduce the number of collections.

7. Inconsistencies with Guidelines in 5 CFR 1320.8(d)

There are no special circumstances. This collection Rule is not inconsistent with 5 CFR 1320.8(d).

8. Consultations Outside the Agency

The amendments adopted by the Commission in 1991 were subject to public review and comment. Prior amendments were made in 1984, which were also subject to a public review and comment.

9. Payment or Gift

Not applicable.

10. Confidentiality

Not applicable. Respondents receive no assurance of confidentiality.

11. Sensitive Questions

There are no questions of a sensitive nature asked, except those related to the securities industry, that are necessary to protect investors as required by federal securities law.

12. Burden of Information Collection

The information required by the Rule is only collected when a broker-dealer is initiating or resuming quotations for a particular security and, as such, it is generally only a one-time or initial burden. Thereafter, a security generally becomes “piggyback eligible” provided the quoting activity meets the requirements of Rule 15c2-11(f)(3). The one-time/initial burden involves reviewing and recordkeeping of the required information as well as filing the required third party disclosure of Form 211 with FINRA.

Based on information provided by the OTC Markets Group, Inc., it is estimated that as of February 14, 2011, there were approximately 21 covered OTC securities quoted exclusively in the OTC Bulletin Board, 7,165 quoted exclusively in the OTC Link, and 2,813 dually quoted on both for a total of 9,999 covered OTC securities.¹ Based on information provided by FINRA, in the 2010 calendar year, FINRA received approximately 1,798 applications from broker-dealers to initiate or resume publication of quotations of covered OTC securities in the OTC Bulletin Board and/or the Pink Sheets or other quotation mediums. We estimate that (i) 41% of the covered OTC securities were issued by reporting issuers, while the other 59%

¹ Although there may be covered OTC securities quoted in other quotation mediums, the empirical data to include them in these estimations is not readily available.

were issued by non-reporting issuers, and (ii) it will take a broker-dealer about 4 hours (with approximately 1 hour of which relates to third party disclosure to FINRA with respect to the Form 211) to review, record and retain the information pertaining to a reporting issuer, and about 8 hours (with approximately 1 hour of which relates to third party disclosure to FINRA with respect to the Form 211) to review, record and retain the information pertaining to a non-reporting issuer.

We therefore estimate that broker-dealers who initiate or resume publication of quotations for covered OTC securities of reporting issuers will require 2,949 hours ($1,798 \times 41\% \times 4$) to review, record and retain the information required by the Rule. We estimate that broker-dealers who initiate or resume publication of quotations for covered OTC securities of non-reporting issuers will require 8,487 hours ($1,798 \times 59\% \times 8$) to review, record and retain the information required by the Rule. Thus, we estimate the total annual burden hours for broker-dealers to initiate or resume publication of quotations of covered OTC securities to be 11,436 hours ($2,949 + 8,487$). The Commission believes that these 11,436 hours would be borne by staff working at a rate of \$40 per hour.²

13. Costs to Respondents

The Commission does not believe that there would be any cost to respondents in complying with Rule 15c2-11.

14. Costs to the Federal Government

Rule 15c2-11 does not present a significant cost to the government because the government does not review the information collected by the respondents.

15. Changes in Burden

The increase in total burden hours is due to an increase in the number of applications from broker-dealers to initiate or resume publication of covered OTC securities from the prior time period. In addition, the number of covered OTC securities of reporting issuers decreased, whereas the number of covered OTC securities of non-reporting issuers increased and the recordkeeping burden on non-reporting issuers is greater than that of reporting issuers. There are no other changes in the burden.

16. Information Collection Planned for Statistical Purposes

Not applicable. There is no intention to publish the information for any purpose.

² See Appendix C, SIFMA Office Salaries Data – Sept. 2007 for General Clerk national hourly rate.

17. Display of OMB Approval Date

The Commission is not seeking approval to not display the OMB approval expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.