

**SUPPORTING STATEMENT
for the Paperwork Reduction Act
Information Collection Submission for
“Rule 17f-2(c)”**

A. JUSTIFICATION

1. Information Collection Necessity

Congress added Section 17(f) to the Securities Exchange Act of 1934 (“Exchange Act”)¹ in 1975 as part of the Securities Acts Amendments of 1975² in order to respond to a large number of securities thefts that occurred in the late 1960s. Testimony before the Senate Permanent Subcommittee of Investigations between 1971 and 1974 indicated that the trafficking in stolen securities certificates was profitable for organized crime and that the failure to have available to the financial community a means of easily identifying security-risk personnel was a contributing factor to that problem. Specifically, Section 17(f)(2) requires every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency to require that each of its partners, directors, officers, and employees be fingerprinted and submit such fingerprints to the U.S. Attorney General for identification and processing. This section also authorized the Commission to, by rule, exempt from the provisions of this paragraph any class of partners, directors, officers, and employees of any such member, broker, dealer, registered transfer agent, and registered clearing agency.

On March 16, 1976, the Commission adopted Rule 17f-2 under the Exchange Act. The general purposes of Rule 17f-2 are: (1) to identify security risk personnel (*i.e.*, persons with criminal history records for serious offenses); (2) to provide criminal record information so that employers can make fully informed employment decisions; (3) to deter persons with a criminal record from seeking employment or association with covered entities. The rule attempts to achieve these purposes primarily by requiring, subject to certain exceptions, every partner, director, officer, and employee of every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency (“covered entities”) to be fingerprinted and submit such fingerprints to the U.S. Attorney General or its designee.

Paragraph (c) of Rule 17f-2 specifies that the fingerprinting requirement may be satisfied by submitting fingerprint cards to a registered national securities exchange or to a registered national securities association pursuant to a plan filed with and declared effective by the Commission and forwards such fingerprint cards to the U.S. Attorney General or its designee for identification and processing.

¹ 15 U.S.C. 78q(f).

² Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

2. Purpose and Information Collection Use

The purpose of this requirement is driven by the fact that fingerprint cards are processed by the Federal Bureau of Investigation (the U.S. Attorney General's designee), and will not accept or process fingerprint cards directly from submitting organizations.³ Therefore, Commission approval of plans from registered securities associations (also known as "self-regulatory organizations") is essential to carry out the Congressional goal to fingerprint securities industry personnel. The filing of these plans for approval by the Commission assures covered entities and their personnel that fingerprint cards will be handled responsibly and with due care for confidentiality.

3. Consideration Given to Information Technology

Rule 17f-2(e)(2) requires covered entities to submit fingerprint cards to the U.S. Attorney General or its designee (in practice, the FBI). Improved information technology has enabled the FBI to collect such fingerprint records electronically. There is a strong trend by the securities industry to take advantage of this as doing so greatly reduces the cost of compliance.

4. Duplication

Rule 17f-2(b) provides that if fingerprint cards have already been taken pursuant to any other federal or state law or regulation and are submitted to the U.S. Attorney General or its designee, the requirements of Section 17(f)(2) of the Act are satisfied.

5. Effect on Small Entities

No information is requested from small entities.

6. Consequences of Not Conducting Collection

If the fingerprint plans were not collected and approved by the Commission, the Commission will be unable to meet the purposes of Section 17(f)(2) of the Act.

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

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.8(d).

³ In practice, the Financial Industry Regulatory Authority ("FINRA"), which is a registered national securities association, submits most, if not all, of the fingerprint cards to the FBI on behalf of the covered entities.

8. Consultations Outside the Agency

The required Federal Register notice with a 60-day comment period soliciting comments on this collection of information was published. No public comments were received.

9. Payment or Gift

There were no payments or gifts to respondents.

10. Confidentiality

The Privacy Act and the Freedom of Information Act provide protection from unwarranted disclosure.

11. Sensitive Questions

No questions of a sensitive nature are asked.

12. Burden of Information Collection

We received three years of information dating to 2008 from FINRA, which revealed that an annual average of 5,000 respondents have submitted an annual average 306,000 sets of fingerprints (which includes both electronic and paper submissions) to FINRA. We estimate that it takes approximately 10 minutes for respondents to collect the fingerprints through FINRA (electronically or manually by paper) and 5 minutes to submit them to the FBI (again, either electronically or by paper mail or courier service) in compliance with Rule 17f-2(c), for a total burden of 15 minutes per submission. Therefore, we estimate the total burden to be 76,500 hours (306,000 submissions times .25 hours). This represents a reporting burden by the covered entities to third parties, namely FINRA and the FBI, and is assessed on a per-submission basis.

13. Costs to Respondents

There is a \$30.25 fee levied by FINRA (\$13) and the FBI (\$17.25) to process each set of fingerprints. Approximately 305,787 fingerprints are submitted annually. Therefore, we estimate the total annualized cost to the industry to be \$9,256,500 (306,000 times \$30.25, rounded up to the nearest \$100). This cost reflects FINRA's and the FBI's costs associated with generating, maintaining, and disclosing the fingerprint information.

14. Costs to Federal Government

The costs to the federal government to administer Rule 17f-2(c) are zero. First, the fingerprint cards are collected and submitted to the FBI by self-regulatory organizations. Second, while the Commission periodically reviews new fingerprinting plans that are submitted by SROs for Commission approval, the costs to the federal government for this aspect of the rule is composed solely of staff time to review such plans. For purposes of the Paperwork Reduction Act burden, this cost is considered zero.

15. Changes in Burden

The decrease in time burden since 2008 is due to a change in Agency estimates, based on the average annual decrease in the number of fingerprint cards submitted by FINRA to the FBI over the past three years. In addition, more fingerprints are being provided electronically therefore reducing the annual time burden from 91,989 hours to 76,500 hours. There is a strong trend by the securities industry to take advantage of this as doing so greatly reduces the cost of compliance annually \$1,782,180.00.

16. Information Collection Planned for Statistical Purposes

The collections of information statistics for Rule 17f-2(c) will not be published.

17. Display of OMB Approval Date

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

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.