

**PAPERWORK REDUCTION ACT  
SUPPORTING STATEMENT**

**Registration Requirements for Security-based Swap Dealers and Major Security-based Swap Participants**

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**A. Justification**

1. Information Collection Necessity

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “Dodd-Frank Act”) added Section 15F to the Securities Exchange Act of 1934 (“Exchange Act”) to create a regulatory structure to allow the Securities and Exchange Commission (the “Commission”) to regulate security-based swap dealers and major security-based swap participants (collectively, “SBS Entities”).

Registration

New Section 15F(a) of the Exchange Act provides that it is unlawful for an SBS Entity to act as an SBS Entity unless it is registered as an SBS Entity with the Commission pursuant to Section 15F(b) of the Exchange Act. New Section 15F(b) of the Exchange Act authorizes the Commission to prescribe by rule an application form for registration that contains such information as the Commission considers necessary concerning the business in which it is or will be engaged. In addition, new Section 15F(d)(1) of the Exchange Act authorizes the Commission to adopt rules for persons registered as SBS Entities.

To implement these new sections of the Exchange Act and facilitate registration of SBS Entities, the Commission is proposing to adopt a series of new rules and Forms. Proposed rule 15Fb2-1(a)<sup>1</sup> would require a firm to file an application for registration as an SBS Entity with the Commission on Form SBSE,<sup>2</sup> Form SBSE-A,<sup>3</sup> or

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<sup>1</sup> 17 CFR 240.15Fb2-1(a).

<sup>2</sup> 17 C.F.R. 249.1600. The proposed rules would require SBS Entities that are not already registered as broker-dealers or registered or registering with the CFTC as a swap dealer or major swap participant to use Form SBSE to register with the Commission. Form SBSE would elicit all the information the Commission needs to evaluate the applicant’s request for registration.

<sup>3</sup> 17 C.F.R. 249.1600a. The proposed rules would allow SBS Entities that are registered or registering with the CFTC as a swap dealer or major swap participant to use Form SBSE-A instead of Form SBSE to register with the Commission to register with the Commission. Form SBSE-A is shorter than Form SBSE and was designed to elicit information the staff needs to evaluate an SBS Entity’s registration that is not already elicited through the CFTC registration form, which these firms would also be required to provide to the Commission.

Form SBSE-BD,<sup>4</sup> as applicable. These Forms are designed to elicit information concerning, among other things, the nature of an SBS Entity's business, the identity of its principals and controlling persons, and whether it has been sanctioned for investment-related violations. Proposed rule 15Fb2-3<sup>5</sup> would require a registered SBS Entity to promptly update its Form SBSE, SBSE-A, or SBSE-BD, as applicable, when information contained in those Forms changes or becomes materially inaccurate. Paragraph (b) of proposed Rule 15Fb2-1 would require that each SBS Entity provide the Commission with a certification on Form SBSE-C to facilitate the Commission's review of each firm's application for ongoing registration.<sup>6</sup> Proposed Rule 15Fb2-4<sup>7</sup> would require nonresident SBS Entities to (1) file an additional schedule to Form SBSE, Form SBSE-A, or Form SBSE-BD, as appropriate, to inform the Commission of the identity and location of its U.S. agent for service of process and to certify that it can, as a matter of law, provide the Commission with access to its books and records and submit to onsite inspection and examination by the Commission, and (2) obtain an opinion of counsel stating that the nonresident SBS Entity can, as a matter of law, provide the Commission with access to its books and records submit to onsite inspection and examination by the Commission. Proposed Rule 15Fb6-1<sup>8</sup> would require SBS Entities to certify, on Schedule G to Form SBSE, Form SBSE-A, or Form SBSE-BD, as appropriate, that none of the SBS Entity's associated persons are statutorily disqualified, and would require that SBS Entities obtain certain information from associated persons to support that certification.

The collections of information included in these proposed rules are necessary to allow the Commission to effectively determine whether the applicant meets the statutory requirements to engage in the security-based swap business. In addition, these collections of information are necessary to allow the Commission to adequately supervise the activities of these SBS Entities on an ongoing basis.

### Withdrawal

Proposed rule 15Fb3-2<sup>9</sup> would allow a registered SBS Entity to withdraw from registration with the Commission by filing Form SBSE-W.<sup>10</sup> The collection of information included in

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<sup>4</sup> 17 C.F.R. 249.1600b. The proposed rules would allow SBS Entities that are also registered broker-dealers to use Form SBSE-BD instead of Form SBSE to register with the Commission. Form SBSE-BD is a shorter form in recognition of the fact that the Commission already has, through Form BD, much of the information elicited through Form SBSE that the staff would need to evaluate the applicant's request for registration.

<sup>5</sup> 17 CFR 240.15Fb2-3.

<sup>6</sup> 17 CFR 240.15Fb2-1(b).

<sup>7</sup> 17 CFR 240.15Fb2-4.

<sup>8</sup> 17 CFR 240.15Fb6-1. Exchange Act Section 15F(b)(6) specifically prohibits SBS Entities from permitting any of their associated persons who are subject to a "statutory disqualification" (as defined in Exchange Act Section 3(a)(39)) to effect or be involved in effecting security-based swaps on behalf of the SBS Entity if the SBS Entity knew, or in the exercise of reasonable care should have known, of the statutory disqualification.

<sup>9</sup> 17 CFR 240.15Fb3-2.

<sup>10</sup> 17 CFR 249.1601.

proposed Rule 15Fb3-2 and Form SBSE-W are necessary to allow the Commission to determine whether it is in the public interest to allow the SBS Entity to withdraw from registration.

Temporary Rule to Provide Alternative to Electronic Submission of Applications

Finally, proposed temporary Rule 15Fb2-2T<sup>11</sup> would provide a process to facilitate registration if a technological means to facilitate receipt and retention of applications required to be filed in accordance with Rule 15Fb2-1 is not functional by the time final rules are adopted. This rule would require that each SBS Entity file its application for registration on Form SBSE, Form SBSE-A, or Form SBSE-BD, as appropriate, and possibly Form SBSE-C in paper format. In addition, proposed temporary rule 15Fb2-2T would require that each SBS Entity resubmit forms previously filed in paper format electronically within three months of the date such technological means to facilitate receipt and retention of applications becomes functional.

The collections of information included in proposed rule 15Fb2-2T may be necessary to allow the Commission receive, retain and review applications within the timeframes specified in the Dodd-Frank Act if a means to facilitate electronic filing is not functional.

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

Registration

The Commission would use the information disclosed by applicants through the proposed registration SBS Entity rules and Forms SBSE, SBSE-A, SBSE-BD and SBSE-C (1) to determine whether an applicant meets the standards for registration set forth in the provisions of the Exchange Act, and; (2) to develop an information resource regarding SBS Entities where members of the public may obtain relevant, up-to-date information about SBS Entities, and where the Commission may obtain information for examination and enforcement purposes. Without the information provided through these proposed SBS Entity registration rules and Forms SBSE, SBSE-A, and SBSE-BD, the Commission could not effectively determine whether the applicant meets the standards for registration or implement policy objectives of the Exchange Act.

Withdrawal

The information collected pursuant to Rule 15Fb3-2 and Form SBSE-W would allow the Commission to determine whether it is appropriate to allow an SBS Entity to withdraw from registration and to facilitate that withdrawal. Without this information, the Commission could not effectively determine whether it was appropriate to allow an SBS Entity to withdraw. In addition, it would be more difficult for the Commission to properly regulate SBS Entities if it were unable to quickly identify those that have withdrawn from the security-based swap business.

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<sup>11</sup> 17 CFT 240.15Fb2-2T.

### Temporary Rule to Provide Alternative to Electronic Submission of Applications

Rule 15Fb2-2T would only be adopted if a technological means to facilitate receipt and retention of applications required to be filed in accordance with Rule 15Fb2-1 is not functional by the time final rules are adopted. If such a technological means to facilitate receipt of applications is unavailable, the only way the Commission could facilitate registration of SBS Entities would be via a manual process, as described by Rule 15Fb2-2T.

#### 3. Consideration Given to Information Technology

The Commission is proposing to require that SBS Entity applicants file Form SBSE, Form SBSE-A, or Form SBSE-BD, as appropriate, and attachments thereto electronically. The Commission believes that this method of collecting information would reduce the regulatory burden upon SBS Entities. However, if a technological means to facilitate receipt of applications is unavailable, the Commission would adopt temporary Rule 15Fb2-2T to allow the Commission to process applications until such a technological means were developed. At that time, the Forms would be resubmitted electronically.

#### 4. Duplication

There will be no duplication because SBS Entities are not presently required to register. An SBS Entity must register in one or more different capacity(ies) because it engages in multiple lines of business, other registration requirements may be eliciting different information for different purposes from the information required by Rule 15Fb2-1 and Forms SBSE, Form SBSE-A, Form SBSE-BD,<sup>12</sup> and Form SBSE-C.

#### 5. Effect on Small Entities

Based on the Commission's existing information about the security-based swap market, the Commission preliminarily believes that no entities that will qualify as SBS Entities will be "small entities."

#### 6. Consequences of Less Frequent Collection

Rule 15Fb2-1(a) and Form SBSE would require that an SBS Entity file Form SBSE, Form SBSE-A, or Form SBSE-BD, as applicable, (including the additional schedules required to comply with Rules 15Fb2-4 and 15Fb6-1) only once to register. Rule 15Fb2-3 would require an SBS Entity to file amendments to those forms only when information contained therein becomes inaccurate. Rule 15Fb2-1(b) and Form SBSE-C would require that an SBS Entity submit a certification only once. Less frequent collection of information pursuant to these rules and forms would impair the accuracy of the information available to the Commission.

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<sup>12</sup> An SBS Entity would only be required to file one application, on either Form SBSE, Form SBSE-A or Form SBSE-BD, whichever is applicable.

Rule 15Fb3-2 would require that an SBS Entity file Form SBSE-W to withdraw from registration only once. Less frequent collection of this information would limit the Commission's understanding of whether registered SBS Entities continue to engage in business and could result in a misallocation of Commission resources to oversee SBS Entities that are no longer engaged in this business.

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

The Commission has issued a release soliciting comment on the new "collection of information" requirements and associated paperwork burdens. A copy of the release is attached. Comments on Commission releases are generally received from registrants, investors, and other market participants. In addition, the Commission and staff participate in ongoing dialogue with representatives of various market participants through public conferences, meetings and informal exchanges. Any comments received on this proposed rulemaking will be posted on the Commission's public website, and made available through <http://www.sec.gov/rules/proposed.shtml>. The Commission will consider all comments received prior to publishing the final rule, and will explain in any adopting release how the final rule responds to such comments, in accordance with 5 C.F.R. 1320.11(f).

9. Payment or Gift

Not applicable.

10. Confidentiality

The Commission intends to make the information collected pursuant to proposed Rule 15Fb1-1 through 15Fb6-1 and Forms SBSE, SBSE-A, SBSE-BD, SBSE-C and SBSE-W public.

11. Sensitive Questions

Not applicable.

12. Annual Time Burden Estimate

The Commission preliminarily believes, based on data obtained from DTCC and conversations with market participants, that approximately fifty entities may fit within the definition of SBS Dealer and up to five entities may fit within the definition of major security-based swap participant. All of these entities will need to register within the first year.

The staff further estimates, based on its experience and understanding of the unregulated swaps and security-based swaps markets, that the majority of firms that may register as SBS Entities (thirty-five) also will be engaged in the swaps business and will register with the CFTC as swap dealers or major swap participants. In addition, persons holding securities positions may find it beneficial to hedge those positions with security-based swaps, so it may be beneficial for a

broker-dealer to become an SBS Entity so that it can provide this option to its customers. Thus, Commission staff estimates that approximately sixteen broker-dealers will seek to register as SBS Entities. Finally, given the costs of registration it may be less likely for an entity that is not otherwise registered with the CFTC or the Commission to register as an SBS Entity. Consequently, the Commission staff estimates that only four firms not otherwise registered with the CFTC or the Commission will seek to become an SBS Entity.

#### Burden Associated with Filing Application Forms

Proposed Rule 15Fb2-1 would require that each SBS Entity register with the Commission by filing an application. The Commission has attempted to reduce the burden associated with the application process by providing multiple forms for SBS Entities to use to register (Form SBSE, Form SBSE-A, or Form SBSE-BD). It is anticipated that each SBS Entity will only need to research, complete, and file one form.

While it is likely that the time necessary to complete these forms would vary depending on the nature and complexity of the entity's business, the Commission staff estimates (based on its experience with Form BD) that the average time necessary for an SBS Entity to research the questions, and complete and file a Form SBSE (including the Schedules<sup>13</sup> and disclosure reporting pages ("DRPs")) would be approximately one work week or forty hours.<sup>14</sup> As discussed above, the Commission estimates that approximately four firms would need to register using Form SBSE. Consequently, the total burden associated with filing Forms SBSE would be approximately 160 hours.<sup>15</sup>

The Commission staff believes that, as Form SBSE-A is shorter than the Form SBSE, it should take an SBS Entity approximately 80% of the time that it would take to research, complete, and file a Form SBSE (including the Schedules<sup>16</sup> and DRPs), or thirty two hours. As discussed above, the Commission estimates that approximately thirty-five firms would also be registered with the CFTC and therefore would need to register using Form SBSE-A. Consequently, the total burden associated with filing Forms SBSE would be approximately 1,120 hours.<sup>17</sup>

The Commission staff believes that, as Form SBSE-BD is shorter than either Form SBSE or Form SBSE-A and broker-dealers who would be filing Form SBSE-BD are familiar with

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<sup>13</sup> Except Schedules F and G, which are dealt with separately below.

<sup>14</sup> The staff has previously estimated that the average time necessary for a broker-dealer to complete and file Form BD, the Form upon which Form SBSE was based, would be approximately three hours (and that estimate was subject to notice and comment. *Broker-Dealer Registration and Reporting*, Exchange Act Release No. 41594 (July 2, 1999), 64 FR 37586.) However, some SBS Entities may not previously have been subject to regulation and thus may need more time to research the answers to complete Form SBSE and its schedules and DRPs.

<sup>15</sup> (40 hours x 4 SBS Entities) = 160 hours total.

<sup>16</sup> *See supra*, note 13.

<sup>17</sup> (32 hours x 35 SBS Entities) = 1,120 hours total.

Commission terminology and forms, researching, completing, and filing a Form SBSE-BD should take an SBS Entity approximately 25% of the time that it would take to research, complete, and file a Form SBSE (including the Schedules<sup>18</sup>), or ten hours. As discussed above, the Commission estimates that approximately sixteen SBS Entities would need to register using Form SBSE-BD. Consequently, the total burden associated with filing Forms SBSE-BD would be approximately 160 hours.<sup>19</sup>

Thus, the total burden associated with Filing Form SBSE, Form SBSE-A, or Form SBSE-BD, as appropriate would be approximately 1,440 hours.<sup>20</sup>

#### *Cost of Burden Hours Associated with Filing Application Forms*

The Commission preliminarily believes that it would cost each SBS Entity approximately \$11,800 to complete and file the Form SBSE (including the Schedules<sup>21</sup> and DRPs).<sup>22</sup> As stated previously, the Commission has attempted to reduce costs associated with the application process by providing multiple forms for SBS Entities to use to register. The alternative forms (Form SBSE-A, and Form SBSE-BD) are both shorter and should require that an SBS Entity expend less effort to research, complete, and file. Consequently, the Commission preliminarily believes that it would cost each firm approximately \$9,440 to complete Form SBSE-A<sup>23</sup> (including the Schedules<sup>24</sup> and DRPs) and approximately \$2,950 to complete Form SBSE-BD (including the Schedules).<sup>25</sup> It is anticipated that each SBS Entity will only need to research, complete, and file one Form, and that it will update that Form, as necessary, as described below. Thus, the total estimated cost to all entities to research, complete, and file Forms to register as SBS Entities would be approximately \$424,800.<sup>26</sup>

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<sup>18</sup> *Id.*

<sup>19</sup> (10 hours x 16 SBS Entities) = 160 hours total.

<sup>20</sup> 160 hours for 4 SBS Entities to file Form SBSE + 1,120 hours for 35 SBS Entities to file Form SBSE-A + 160 hours for 16 SBS Entities to file Form SBSE-BD = 1,440 hours.

<sup>21</sup> *See supra*, note 13.

<sup>22</sup> The staff believes that an SBS Entity would have a Compliance Manager complete and file the form's application on Form SBSE, and that the pay scales for broker-dealers and SBS Entities would likely be similar. According to the SIFMA 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, the hourly cost of a broker-dealer Compliance Manager is approximately \$295/hour. 40 hours x \$295 = \$11,800.

<sup>23</sup> The staff believes that an SBS Entity would have a Compliance Manager complete and file the form's application on Form SBSE-A, and that the pay scales for broker-dealers and SBS Entities would likely be similar. *See supra* note 22. 32 hours x \$295 = \$9,440.

<sup>24</sup> *See supra*, note 13.

<sup>25</sup> *Id.* The staff believes that an SBS Entity would have a Compliance Manager complete and file the form's application on Form SBSE-BD, and that the pay scales for broker-dealers and SBS Entities would likely be similar. *See supra* note 22. 10 hours x \$295 = \$2,950.

<sup>26</sup> \$424,800 = (35 firms x \$9,440) + (16 firms x \$2,950) + (4 firms x \$11,800).

### Burden Associated with Amending Application Forms

Proposed Rule 15Fb2-3 would require that SBS Entities amend their applications if they find that the information contained therein has become inaccurate. While proposed Rule 15Fb2-3 would require SBS Entities to update their Forms periodically, each firm will only need to amend that aspect of the Form that has become inaccurate. Further, it likely will not cost a significant amount to make such changes because each firm will only need to amend that aspect of the Form that has become inaccurate. Based on the number of amendments the Commission receives annually on Form BD,<sup>27</sup> the Commission estimates that each SBS Entity will file approximately three amendments annually. While it is likely that the time necessary to file an amendment to Form SBSE, Form SBSE-A, or Form SBSE-BD, as applicable may vary depending on the nature and complexity of the information to be amended, the staff estimates, based on experience with Form BD, that it likely would take an SBS Entity, on average, approximately one hour to amend its application each time it files an amendment. Consequently, the total burden associated with amending Forms SBSE, SBSE-A, and SBSE-BD, as applicable, would be approximately 165 hours.<sup>28</sup>

#### *Cost of Burden Hours Associated with Amending Application Forms*

The Commission preliminarily believes that it would cost each SBS Entity approximately \$885 to complete and file amendments to its forms.<sup>29</sup> Consequently, the Commission estimates that it would cost all SBS Entities approximately \$48,675 annually to complete and file these amendments.<sup>30</sup>

### Burden Associated with Certification

Paragraph (b) of proposed Rule 15Fb2-1 would require that each SBS Entity have a knowledgeable senior officer certify that, after due inquiry, he or she has reasonably determined that the SBS Entity has the operational, financial, and compliance capabilities to act as an SBS Dealer or major security-based swap participant, as applicable, and has documented the process by which he or she has reached such determination. Each SBS Entity would need to provide this certification on Form SBSE-C only once. The Commission believes that the majority of the cost

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<sup>27</sup> On March 1, 2010 there were 5,163 broker-dealers registered with the Commission (based on Form BD data). The Commission received 20,666, 17,839, 16,702, 16,365, and 17,247 amended Forms BD during the fiscal years ending 9/30/2005, 9/30/2006, 9/30/2007, 9/30/2008 and 9/30/2009, respectively.  $((20,666 + 17,839 + 16,702 + 16,365 + 17,247) / 5 \text{ years}) / 5,163 \text{ broker-dealers} = 3.44 \text{ amendments per broker-dealer}$ .

<sup>28</sup> 1 hour x three per year x 55 SBS Entities = 165 hours.

<sup>29</sup> The staff believes that an SBS Entity would have a Compliance Manager complete and file amendments to the SBS Entity's forms, and that the pay scales for broker-dealers and SBS Entities would likely be similar. According to the SIFMA 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, the hourly cost of a Compliance Manager is approximately \$295/hour. 1 hours x \$295 x three per year = \$885.

<sup>30</sup> \$885 x 55 SBS Entities = \$48,675.



associated with this certification would arise from the review the senior officer conducts, or has others conduct, prior to certifying that the SBS Entity has the requisite operational, financial, and compliance capabilities.

The Commission understands (based on the staff's experience with broker-dealers and other regulated entities) that, in satisfying other certification requirements, SBS Entities may use different processes, depending on the facts and circumstances of their business. Some SBS Entities may develop more or less robust process than others and, as a result, may incur higher or lower than average costs. Some SBS Entities may use a sub-certification process whereby the senior officer will not certify a firm-wide statement unless and until other persons responsible for certain activities in turn certify to the senior officer that the standard has been met, while other firms may use an internal or external audit-type process whereby a senior officer may choose to employ a third party to review an area subject to a firm-wide certification before submitting the certification. There may be other processes an SBS Entity could use to provide a basis for a senior officer's reasonable determination that the SBS Entity has the requisite capabilities that we have not specifically identified here. Many factors outside of the Commission's control<sup>31</sup> may determine whether an SBS Entity might choose to utilize an internal process, as opposed to hiring a third party, to serve as a basis for the Senior Officer Certification. For purposes of this PRA, we will estimate that approximately half, or twenty-eight of the SBS Entities, may use an internal process and the other half, or twenty-seven of the SBS Entities, will hire a third party.

The Commission believes that, regardless of whether an SBS Entity uses an internal process or an external process to serve as a basis for the Senior Officer Certification, the burden associated with having a senior officer sign a certification likely would be approximately five hours,<sup>32</sup> The Commission has previously estimated that it would take a senior officer approximately twenty hours to review, document, and update compliance procedures,<sup>33</sup> which the staff believes would be analogous to reviewing documents provided either by subordinates or a third party to gain comfort necessary to sign the Senior Officer Certification.

Commission staff estimates, based on its experience with the securities and over-the-counter derivatives industries, that if a senior officer opted to conduct an internal review of the SBS Entity's operational, financial, and compliance capabilities, it would take approximately one hundred and seventy five additional hours for other SBS Entity employees to assess the SBS Entity's operational, financial, and compliance capabilities and provide the senior officer with sub-certifications or other documents he or she may request to obtain the necessary comfort before signing the Senior Officer Certification. Consequently, the Commission estimates that the one-time burden for the twenty-eight SBS Entities that utilize an internal review process would be approximately 5,600 hours for other SBS Entity employees to assess the SBS Entity's

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<sup>31</sup> For instance, such factors could include: costs; how comfortable the senior officer may be with his or her subordinates within the SBS Entity's control structure; and how knowledgeable a senior officer may be regarding the SBS Entity's capabilities.

<sup>32</sup> See, e.g., *Risk Management Controls for Brokers or Dealers With Market Access*, Exchange Act Release No. 63241 (Nov. 3, 2010), 75 FR 69792, at 69816 (Nov. 15, 2010).

<sup>33</sup> *Id.*

operational, financial, and compliance capabilities and provide the senior officer with documents, and for the senior officer to review those documents and sign the Senior Officer Certification.<sup>34</sup>

In addition, the Commission estimates that the one-time burden for the twenty-seven SBS Entities that utilize an external review process would be approximately 675 hours<sup>35</sup> for the senior officer to review documents provided by the third party to gain the necessary comfort and to sign the Senior Officer Certification.

Thus, the total burden for all SBS Entities associated with the Senior Officer Certification would be approximately 6,275 hours.

#### *Cost of Burden Hours Associated with Certification*

The Commission preliminarily believes that, regardless of whether an SBS Entity may choose to utilize an internal process, as opposed to an external process, to serve as a basis for the Senior Officer Certification, it will cost approximately \$10,450 on average for a senior officer to review documents provided either by subordinates or by a third party to gain the comfort necessary to sign and to sign the Senior Officer Certification.<sup>36</sup> The Commission estimates that, if an SBS Entity opted to conduct an internal review of the SBS Entity's operational, financial and compliance capabilities, it will cost each SBS Entity approximately an additional \$73,150<sup>37</sup> for other SBS Entity employees to assess the SBS Entity's operational, financial, and compliance capabilities and provide the senior officer with whatever sub-certifications or other documents he or she may request to obtain the necessary comfort before signing the Senior Officer Certification. Thus, the Commission estimates that this certification requirement will cost all SBS Entities a total of approximately \$2,622,950.<sup>38</sup>

#### *Burdens Relating to Associated Persons*

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<sup>34</sup> (5 hours + 20 hours + 175 hours) x 28 SBS Entities = 5,600 hours.

<sup>35</sup> (5 hours + 20 hours) x 27 SBS Entities = 675 hours.

<sup>36</sup> The staff believes the pay scales for broker-dealers and SBS Entities would likely be similar, and that the pay of a Chief Compliance Officer (or "CCO") likely would be similar to the amount paid to other senior officers. According to the SIFMA'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, the hourly cost of a CCO is approximately \$418/hour. 25 hours x \$418 = \$10,450.

<sup>37</sup> The staff believes the pay scales for broker-dealers and SBS Entities would likely be similar, and that the pay of a CCO likely would be similar to the amount paid to other senior officers. According to the SIFMA'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, the hourly cost of a CCO is approximately \$418/hour. For purposes of this estimate, we will assume that those a senior officer may consult with are paid at approximately the same level. 175 hours x \$418 = \$73,150.

<sup>38</sup> (\$10,450 x 55 SBS Entities) + (\$73,150 x 28 SBS Entities) = \$574,750 + \$2,048,200 = \$2,622,950.

Proposed Rule 15Fb6-1 would require an SBS Entity to obtain a questionnaire or application for employment executed by each of its associated persons who is involved in effecting security based swaps on behalf of the SBS Entity that contains certain, specified information. The proposed rule further would provide that the questionnaire or application must be reviewed and signed by the SBS Dealer's or major security-based swap participant's CCO. Finally, the CCO would need to certify (on Schedule G of its Form SBSE, Form SBSE-A, or Form SBSE-BD, as applicable) that no associated person that effects or is involved in effecting security-based swaps on behalf of the SBS Entity is subject to a statutory disqualification. SBS Entities would only need to fulfill these obligations for associated persons that effect or are involved in effecting security based swaps on behalf of the SBS Entity.<sup>39</sup> The Commission estimates (based on the staff's experience with the securities and OTC derivatives industries) that SBS Entities each have, on average, twenty-five associated persons that effect or are involved in effecting security-based swaps on behalf of the SBS Entity. The Commission believes that the information SBS Entities would need to obtain through these questionnaires is standard in the financial services industry, and is already collected by firms registered with the CFTC and the SEC. In addition, SBS Entities that are registered with the Commission or the CFTC must already perform background checks on their employees because of the prohibitions from employment of statutorily disqualified persons in the CEA and the Exchange Act.

The Commission staff estimates, based on its experience with the securities industry, that the average time necessary for an SBS Entity to review its employment questionnaire or application to verify that it contains all of the required information and to update the questionnaire would be approximately three hours. Because SBS Entities that are already registered with the Commission or the CFTC already collect this information, the Commission estimates that the cost to all SBS Entities to review employment questionnaires or applications, verify that they contain all of the required information and update the questionnaires or applications, as necessary, would be approximately 12 hours.<sup>40</sup>

As discussed above, the Commission staff believes that most financial services firms already collect all or most of the information proposed Rule 15Fb6-1 would require that they collect. Consequently, the Commission estimates that the burden to require an SBS Entity's

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<sup>39</sup> 15 U.S.C. 78c(a)(70) generally defines the term "person associated with" an SBS Entity to include: (i) any partner, officer, director, or branch manager of an SBS Entity (or any person occupying a similar status or performing similar functions); (ii) any person directly or indirectly controlling, controlled by, or under common control with an SBS Entity; or (iii) any employee of an SBS Entity. However, it generally excludes persons whose functions are solely clerical or ministerial.

The Commission believes that associated persons "involved in effecting" security-based swaps would include, but not be limited to, persons involved in drafting and negotiating master agreements and confirmations, persons recommending security-based swap transactions to counterparties, persons on a trading desk actively involved in effecting security-based swap transactions, persons pricing security-based swap positions and managing collateral for the SBS Entity, and persons assuring that the SBS Entity's security-based swap business operates in compliance with applicable regulations. In short, the term would encompass persons engaged in functions necessary to facilitate the SBS Entity's security-based swap business.

<sup>40</sup> 3 hours x 4 SBS Entities that are not registered with the Commission or CFTC = 12 hours.

existing associated persons that effect or are involved in effecting security-based swaps on behalf of the SBS Entity to provide those few categories of information that they did not originally provide on their employment questionnaires or applications would be approximately one hour each. The Commission estimates that the burden to all SBS Entities to obtain additional information from relevant associated persons, would be approximately 100 hours.<sup>41</sup>

The Commission staff estimates, based on the staff's experience with the securities industry, that it would take a CCO approximately one hour to review and sign a relevant employee's employment record. Consequently, the Commission estimates that the total burden to all SBS Entities to have their CCOs review and sign each associated person's employment record would be approximately 1,375 hours.<sup>42</sup>

On an ongoing basis, if employee turnover at an SBS Entity averages 12%,<sup>43</sup> each SBS Entity would need to have their CCO review and approve in writing three new associated persons' employment records per year. As stated above, the Commission estimates that the burden to have an SBS Entity's CCO review and sign each associated person's employment record would be approximately one hour. Thus, the ongoing annual burden to each SBS Entity would be approximately three hours<sup>44</sup> and the total cost to all SBS Entities to comply with Rule 15Fb6-1 on an ongoing basis would be approximately 165 hours annually.<sup>45</sup>

The Commission believes that as the CCO would already have reviewed and signed each employee's employment record, signing the required certification will not take a significant amount of time. Thus, Commission staff estimates, based on its experience relative to the securities industry, that it would take a CCO approximately one hour to certify on Schedule G that no associated person that effects or is involved in effecting security-based swaps on behalf of the SBS Entity is subject to a statutory disqualification. Consequently, the Commission staff estimates that the total burden to all SBS Entities to complete this certification on Schedule G would be approximately 55 hours.<sup>46</sup>

Thus the total burden associated with proposed Rule 15Fb6-1 would be approximately 1,707 hours.<sup>47</sup>

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<sup>41</sup> One hour x 4 SBS Entities that are not registered with the Commission or CFTC x 25 associated persons effecting or involved in effecting security-based swaps on behalf of the SBS Entity = 100 hours.

<sup>42</sup> One hour x 25 associated persons x 55 SBS Entities = 1,375 hours.

<sup>43</sup> The staff notes that the Bureau of Labor Statistics Labor Turnover Survey indicates that turnover is presently in the range of 3.2%, however the staff believes that the present economic situation has likely driven turnover to historically low level and that this broad statistic likely does not adequately represent actual turnover in the financial services sector. Consequently, the staff believes, based on its experience, that a higher number may be more appropriate.

<sup>44</sup> One hour x three associated persons = three hours.

<sup>45</sup> Three hours x 55 SBS Entities = 165 hours.

<sup>46</sup> One hour x 55 SBS Entities = 55 hours.

<sup>47</sup> This includes: approximately 12 hours to review employment questionnaires or applications, verify that

### *Cost of Burden Hours Relating to Associated Persons*

The Commission preliminarily estimates that the cost for each SBS Entity to review its employment questionnaire or application to verify that it contains all of the required information and to update the questionnaire, as necessary, to obtain any information not presently included on that questionnaire would be approximately \$950,<sup>48</sup> and the cost to all SBS Entities that must perform this review would be approximately \$3,800.<sup>49</sup> The Commission estimates that the cost to require an SBS Entity's existing associated persons that effect or are involved in effecting security-based swaps on behalf of the SBS Entity to provide those few categories of information that they did not originally provide on their employment questionnaires or applications would be approximately \$6,500,<sup>50</sup> and the cost to all SBS Entities that must have existing employees provide this information would be approximately \$52,000.<sup>51</sup> The Commission estimates that the cost to have an SBS Entity's CCO review and sign each associated person's employment record would be approximately \$418,<sup>52</sup> and that the cost to all SBS Entities to have their CCOs review and sign each associated person's employment record would be approximately \$574,750.<sup>53</sup> Similarly, the Commission estimates that the ongoing annual cost to each SBS Entity to have its CCO review and sign new associated person's employment records would be approximately \$1,254<sup>54</sup> and the total cost to all SBS Entities to comply with this requirement would be

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they contain all of the required information and update the questionnaires or applications, as necessary; approximately 100 hours to obtain additional information from relevant associated persons; approximately 1,375 hours to have CCOs review and sign each existing associated person's employment record; approximately 165 hours to review and sign new employees employment records annually; and approximately 55 hours complete this certification on Schedule G would be approximately.

<sup>48</sup> The staff believes the pay scales for broker-dealers and SBS Entities would likely be similar. According to the SIFMA'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, the hourly cost of an Attorney is approximately \$316/hour. 3 hours x \$316 = \$948.

<sup>49</sup> \$950 x 4 SBS Entities that are not registered with the Commission or CFTC = \$3,800.

<sup>50</sup> The staff believes the pay scales for broker-dealers and SBS Entities would likely be similar. As the categories of employees that could be required to provide additional information is diverse (*see supra*, note 39) the weighted-average cost of 46 of the positions included in SIFMA'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, the hourly cost of an Attorney is approximately \$260/hour. 1 hour x 25 associated persons x \$260 = \$6,500.

<sup>51</sup> \$6,500 x 4 SBS Entities that are not registered with the Commission or CFTC = \$26,000.

<sup>52</sup> The staff believes the pay scales for broker-dealers and SBS Entities would likely be similar. According to the SIFMA'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, the hourly cost of a Chief Compliance Officer is approximately \$418/hour. 1 hour x \$418 = \$418.

<sup>53</sup> \$418 x 25 associated persons x 55 SBS Entities = \$574,750.

<sup>54</sup> \$418 x 3 new associated persons each year = \$1,254.

approximately \$68,970.<sup>55</sup> Finally, the Commission estimates that the cost for each SBS Entity to have its CCO certify on Schedule G that no associated person that effects or is involved in effecting security-based swaps on behalf of the SBS Entity is subject to a statutory disqualification would be approximately \$418,<sup>56</sup> and the total cost for all SBS Entities to have their CCO sign this certification on Schedule G would be approximately \$22,990.<sup>57</sup>

Thus, the total cost of the burden associated with Rule 15Fb6-1 for all SBS Entities would be approximately \$722,510.<sup>58</sup>

### Burdens on Nonresident SBS Entities

The Commission estimates, based on conversations with industry participants, that approximately forty percent or twenty-two SBS Entities will be nonresident SBS Entities. Proposed Rule 15Fb2-4 would require that each nonresident SBS Entity file an additional schedule (Schedule F) with their Form SBSE, Form SBSE-A, or Form SBSE-BD, as appropriate, to identify its U.S. agent for service of process and to certify that the firm can, as a matter of law, provide the Commission with access to its books and records and can, as a matter of law, submit to onsite inspection and examination by the Commission.

Commission staff conservatively estimates, based its experience relative to the securities industry and Form BD, that the average time necessary for a nonresident SBS Entity to complete and file Schedule F would be approximately one hour. Thus, the Commission estimates that the total burden for all nonresident SBS Entities approximately to complete and file Schedule F would be approximately 22 hours.<sup>59</sup>

### *Cost of Burden on Nonresident SBS Entities*

The Commission estimates that it would cost each nonresident SBS Entity approximately \$295 to complete Schedule F.<sup>60</sup> Thus, the Commission estimates that the total cost for all nonresident SBS Entities approximately \$6,490.<sup>61</sup>

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<sup>55</sup> \$1,254 x 55 SBS Entities = \$68,970.

<sup>56</sup> The staff believes the pay scales for broker-dealers and SBS Entities would likely be similar. According to the SIFMA'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, the hourly cost of a Chief Compliance Officer is approximately \$418/hour. 1 hour x \$418 = \$418.

<sup>57</sup> \$418 x 55 SBS Entities = \$22,990.

<sup>58</sup> \$3,800 + \$52,000 + \$574,750 + \$68,970 + \$22,990 = \$722,510.

<sup>59</sup> 1 hour x 22 nonresident SBS Entities = 22 hours.

<sup>60</sup> The staff believes that an SBS Entity would have a Compliance Manager complete and file Schedule F with its Form SBSE, Form SBSE-A, or form SBSE-BD, as appropriate, and that the pay scales for broker-dealers and SBS Entities would likely be similar. According to the SIFMA 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

### Burden Related to Retention of Manually Signed Signature Pages

Pursuant to proposed Rule 15Fb1-1, SBS Entities must create manually signed signature pages and retain them until at least three years after the form or certification has been replaced or is no longer effective. It is likely that each SBS Entity would need to maintain at least three pages with manually signed signatures (the execution page of Form SBSE, SBSE-A, or SBSE-BD, as applicable, Schedule G, and the Form SBSE-C certification). In addition, nonresident SBS Entities also would need to retain a manually signed copy of Schedule F. As so few pages would need to be retained, the staff believes the burden associated with retaining them would not be significant. Thus, the Commission estimates that it would take each SBS Entity approximately 10 minutes annually to assure that these pages are retained, or a total of approximately 9 hours annually for all SBS Entities.<sup>62</sup>

#### *Cost of Burden Hours Related to Retention of Manually Signed Signature Pages*

The Commission estimates that it would cost each SBS Entity approximately \$295 to maintain the required manually-signed signature pages.<sup>63</sup> Thus, the Commission estimates that the total cost for all SBS Entities to maintain these documents would be approximately \$2,704.<sup>64</sup>

### Burden Associated with Filing Withdrawal Form

Given that the cost and effort to register as an SBS Entity will be significant, the Commission believes that entities will not enter and exit this business regularly. As the Form SBSE-W is only one page and consists of information readily available to SBS Entities, the staff estimates (based on experience relative to Form BD-W) that it likely would take an SBS Entity, on average, approximately one hour to complete and file a Form SBSE-W. While the Commission believes it is unlikely that any SBS Entity will withdraw from registration often or within the first year, solely for purposes of this PRA the Commission estimates that one SBS Entity may file Form SBSE-W to withdraw from registration annually and the total burden associated with completing and filing Form SBSE-W would be approximately one hour each year.

#### *Cost of Burden Associated with Filing Withdrawal Form*

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overhead, the hourly cost of a Compliance Manager is approximately \$295/hour. 1 hour x \$295 = \$295.

<sup>61</sup> \$295 per nonresident SBS Entity x 22 nonresident SBS Entities = \$6,490.

<sup>62</sup> (10 minutes x 55 SBS Entities) / 60 minutes = 9.17 hours.

<sup>63</sup> The staff believes that an SBS Entity would have a Compliance Manager complete and file Schedule F with its Form SBSE, Form SBSE-A, or form SBSE-BD, as appropriate, and that the pay scales for broker-dealers and SBS Entities would likely be similar. According to the SIFMA 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, the hourly cost of a Compliance Manager is approximately \$295/hour. (10 minutes / 1 hour) x \$295 = \$49.

<sup>64</sup> (10 minutes / 1 hour) x 55 SBS Entities x \$295 = \$2,704.

As the Form SBSE-W is only one page and consists of information readily available to SBS Entities, the Commission estimates that the cost for an SBS Entity to complete and file a Form SBSE-W would be approximately \$295.<sup>65</sup>

#### *Burden Associated with Proposed Temporary Rule 15Fb2-2T*

Pursuant to proposed temporary Rule 15Fb2-2T, each SBS Entity would need to file its application and certification in paper form, and then resubmit its application and certification in electronic form once a technological means to receive such documents becomes functional.<sup>66</sup> The staff estimates that the costs associated with re-filing each of the forms would be minimal, but would be contingent on the length of the form. Further, the additional time to file the certification (which consists of a single page) would not vary relative to the form required to be filed, and would not add significantly to the times required to file the registration forms. The Commission staff preliminarily estimates, based on the staff's experience with the securities industry and Form BD, that the average time necessary for an SBS Entity to resubmit a Form SBSE would be approximately four hours. As Forms SBSE-A and SBSE-BD are shorter than Form SBSE, the Commission staff preliminarily estimates that resubmitting Form SBSE-A would take approximately two hours, and that resubmitting Form SBSE-BD would take approximately one hour. Thus, the Commission estimates that the total burden to all SBS Entities to resubmit their Forms SBSE, SBSE-A, or SBSE-BD, as applicable, would be approximately 102 hours.<sup>67</sup>

#### *Cost of Burden Hours Associated with Proposed Temporary Rule 15Fb2-2T*

The Commission preliminarily believes that it would cost each SBS Entity approximately \$1,180 to resubmit the Form SBSE.<sup>68</sup> As Forms SBSE-A and SBSE-BD are shorter than Form SBSE, the Commission preliminarily believes that it would cost each SBS Entity approximately

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<sup>65</sup> The staff believes that an SBS Entity would have a Compliance Manager complete and file Form SBSE-W, and that the pay scales for broker-dealers and SBS Entities would likely be similar. According to the SIFMA 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, the hourly cost of a Compliance Manager is approximately \$295/hour. 1 hour x \$295 = \$295.

<sup>66</sup> As the burdens associated with completing and filing the forms once are discussed above, the additional burdens associated with proposed temporary Rule 15Fb2-2T relate to resubmission of the form.

<sup>67</sup> (2 hours x 35 SBS Entities already registered with the CFTC) + (1 hour x 16 SBS Entities already registered with the Commission) + (4 hours x 4 SBS Entities not otherwise registered with either the Commission or the CFTC) = 102 hours.

<sup>68</sup> The staff believes that an SBS Entity would have a Compliance Manager file the firm's application on Form SBSE, and that the pay scales for broker-dealers and SBS Entities would likely be similar. According to the SIFMA 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, the hourly cost of a Compliance Manager is approximately \$295/hour. 4 hours x \$295 = \$1,180.



\$590 to resubmit the Form SBSE-A,<sup>69</sup> and \$295 to resubmit the Form SBSE-BD.<sup>70</sup> Thus, the Commission estimates that the total cost to all SBS Entities to resubmit their Form SBSE, SBSE-A, or SBSE-BD, as applicable, would be approximately \$30,090.<sup>71</sup>

### Total Burden Associated with All Proposed Rules

The total burden for all of these rules would be approximately 9,618 hours, including: approximately 1,440 hours to filing Form SBSE, Form SBSE-A, or Form SBSE-BD, as appropriate; approximately 165 hours to amend Forms SBSE, SBSE-A, and SBSE-BD, as applicable; approximately 6,275 hours associated with the Senior Officer Certification; approximately 1,707 hours associated with proposed Rule 15Fb6-1; approximately 22 hours for nonresident SBS Entities to complete and file Schedule F; approximately 9 hours annually to assure that the manually signed signature pages are retained, or a total of for all SBS Entities.

In addition, the Commission estimates that the total burden associated with completing and filing Form SBSE-W would be approximately one hour each year, and the total burden to all SBS Entities to comply with proposed Rule 15Fb2-2T would be approximately 114 hours

### 13. Total Annualized Cost Burden

There may be some costs associated with these rules, including the cost to have a third party review the SBS Entity's operational, financial, and compliance capabilities and provide the SBS Entity with evidence sufficient to make the senior officer sufficiently comfortable to sign the Senior Officer Certification, the cost to nonresident SBS Entities to establish and maintain a relationship with a U.S. agent for service of process, and for nonresident SBS Entities to obtain an opinion of counsel indicating that it can, as a matter of law, provide the Commission with access to its books and records and submit to Commission examinations.

The Commission has previously estimated that the burden associated with obtaining an internal control report from a third party would cost, on average, approximately \$250,000.<sup>72</sup> The staff believes that an internal control report would be roughly analogous to a third party review of each SBS Entity capability included in the Senior Officer Certification; however, the staff believes the cost of a third party review of an SBS Entity's capabilities likely would be less than

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<sup>69</sup> The staff believes that an SBS Entity would have a Compliance Manager file the form's application on Form SBSE-A, and that the pay scales for broker-dealers and SBS Entities would likely be similar. 2 hours x \$295 = \$590.

<sup>70</sup> The staff believes that an SBS Entity would have a Compliance Manager complete and file the form's application on Form SBSE-BD. 1 hour x \$295 = \$295.

<sup>71</sup>  $(\$590 \times 35) + (\$295 \times 16) + (\$1,180 \times 4) = \$30,090$ .

<sup>72</sup> See, e.g., *Custody of Funds or Securities of Clients by Investment Advisers*, Advisers Act Release No. 2968 (Dec. 30, 2009), 75 FR 1456, at 1473 (Jan. 11, 2010). Depending on the facts and circumstances relating to an SBS Entity's business, third party service providers may use different methods to assess each of an SBS Entity's capabilities and report their findings to the SBS Entity, which may affect the cost of the review and the amount a third party charges an SBS Entity for this review.

the cost of three separate internal control reviews because the third party review of capabilities would not require an accountant's opinion and because some economies of scale likely could be achieved when a third party reviews three capabilities for a single SBS Entity. Consequently, the staff estimates that the cost for an SBS Entity to obtain a third party review to provide its senior officer with the necessary comfort to sign the Senior Officer Certification would be approximately \$600,000. Thus, the Commission estimates that the one-time cost for the twenty-seven SBS Entities that utilize an external review process would be approximately \$16,200,000 to have a third party review the SBS Entity's operational, financial, and compliance capabilities and provide the SBS Entity with evidence sufficient to make the senior officer sufficiently comfortable to sign the Senior Officer Certification.

The Commission estimates, based on internet research,<sup>73</sup> that it would cost each nonresident SBS Entity approximately \$125 annually to appoint and maintain a relationship with a U.S. agent for service of process. Consequently, the total cost for all nonresident SBS Entities to appoint and maintain relationships with U.S. agents for service of process is approximately \$2,750 per year.<sup>74</sup>

Non-resident SBS Entities also would incur outside legal costs associated with obtaining an opinion of counsel. In previous releases, the Commission estimated that firms with a similar requirement would incur, on average, approximately \$900 in outside legal costs to obtain an opinion of counsel.<sup>75</sup> This estimate originally related to the cost a foreign bank issuer would incur to obtain a legal opinion to provide to the Commission when seeking an exemption from the requirement to make certain additional disclosures.<sup>76</sup> Although the legal opinion for foreign bank issuers also would address privacy laws in the issuer's home jurisdiction that may preclude certain disclosures, upon further reflection, we believe that the legal opinion required for non-resident SBS Entities pursuant to the proposed rule would likely require additional research and analysis to prepare. Based on staff experience, the Commission estimates that each nonresident SBS Entity would incur, on average, approximately \$25,000 in outside legal costs to obtain the necessary opinion of counsel, and that the total cost for all nonresident SBS Entities to obtain this opinion of counsel would be approximately \$550,000.<sup>77</sup>

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<sup>73</sup> See, e.g., [http://www.incnow.com/registered\\_agent.shtml](http://www.incnow.com/registered_agent.shtml), and <http://www.ailcorp.com/registeredagent.htm>. The staff sought websites that provided pricing information and a comprehensive description of their registered agent services.

<sup>74</sup> \$125 per nonresident SBS Entity x 22 nonresident SBS Entities = \$2,750.

<sup>75</sup> *Registration and Regulation of Security-Based Swap Execution Facilities*, Exchange Act Release No. 63825 (Feb. 2, 2011), 76 FR 10948 (Feb. 28, 2011); *Security-Based Swap Data Repository Registration, Duties, and Core Principles*, Exchange Act Release No. 63347 (Nov. 19, 2010), 75 FR 77306 (Dec. 10, 2010); *Foreign Bank Exemption from the Insider Lending Prohibition of Exchange Act Section 13(k)*, Exchange Act Release No. 49616 (Apr. 26, 2004), 69 FR 24016 (Apr. 30, 2004). The \$900 figure is based on an estimate of \$400 an hour for legal services.

<sup>76</sup> *Foreign Bank Exemption from the Insider Lending Prohibition of Exchange Act Section 13(k)*, Exchange Act Release No. 49616 (Apr. 26, 2004); 69 FR 24016 (Apr. 30, 2004).

<sup>77</sup> \$25,000 x 22 SBS Entities = \$550,000.

### Costs Associated with Proposed Temporary Rule 15Fb2-2T

The costs associated with completing the forms are discussed above. Thus, the additional costs associated with proposed temporary Rule 15Fb2-2T would include the postage cost to send a paper form and the personnel costs associated with later resubmitting the form electronically.

The postage costs likely would be driven by the number of pages each SBS Entity would need to send, which could vary significantly depending on the number of DRPs each firm must include with its Form. The staff conservatively estimates that each SBS Entity may incur, on average, approximately \$5 to send its form to the Commission. As the certification consists of a one page Form SBSE-C, the staff estimates that it likely would cost an SBS Entity approximately \$.50 to send its certification to the Commission. The Commission hopes that it will have a technological means to receive these forms functional relatively quickly; however each SBS Entity may also need to file an amendment before that occurs. As any amendment would likely include few pages because the SBS Entity only would need to provide updates to those items which become inaccurate, the staff estimates that it would cost each SBS Entity approximately \$.50 to send an amendment to the Commission. Consequently, the total postage cost to each SBS Entity associated with proposed temporary Rule 15Fb2-2T would be approximately \$6, and the total postage costs associated with proposed temporary Rule 15Fb2-2T would be approximately \$330.

#### 14. Federal Government Cost

Commission staff estimates that the review and processing of a broker-dealer application filed on Form BD requires approximately 2 hours of staff time. As Forms SBSE, SBSE-A, and SBSE-BD are drafted based on Form BD, the Commission believes that review of these documents likely would take approximately the same amount 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 SBS Entity applications filed on Forms SBSE, SBSE-A, and SBSE-BD, as applicable would be approximately \$8,250 (55 SBS Entities x 2 hours 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. As Forms SBSE, SBSE-A, and SBSE-BD are drafted based on Form BD, the Commission believes that review of these documents likely would take approximately the same amount of staff time. Thus, the cost to the Federal government related to the review and processing of amended Forms BD is approximately \$12,375 (3 amendments x 55 SBS Entities x 1 hour 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 \$20,625 (\$8,250 + \$12,375).<sup>78</sup>

#### 15. Changes in Burden

Not applicable. The rules and forms being proposed are new.

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<sup>78</sup> 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.

16. Information Collections Planned for Statistical Purposes

Not applicable.

17. Approval to Omit the OMB Expiration Date

We request authorization to omit the expiration date on the electronic version of the forms, although the OMB control number will be displayed. Including the expiration date on the electronic version of the forms will result in increased costs, because the need to make changes to the forms may not follow the application's scheduled version release dates.

18. Exceptions to Certification

This collection of information complies with the requirements in 5 CFR 1320.9.

B. Collection of Information Employing Statistical Methods

Not applicable. The collection of information in Rule 15Fb2-1 through 15Fb6-1 and through Forms SBSE, SBSE-A, SBSE-BD, SBSE-C, and SBSE-W do not employ statistical methods.