

**SUPPORTING STATEMENT for the Paperwork Reduction Act  
Information Collection Submission  
“Rule 17g-1”**

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

The Credit Rating Agency Reform Act of 2006<sup>1</sup> (“Rating Agency Act”), enacted on September 29, 2006, defines the term “nationally recognized statistical rating organization,” or “NRSRO,” and provides authority for the Securities and Exchange Commission (“Commission”) to implement registration, recordkeeping, financial reporting, and oversight rules with respect to registered credit rating agencies. In 2007, the Commission adopted rules to implement specific provisions of the Rating Agency Act, as well as other registration, recordkeeping, financial reporting and oversight rules.<sup>2</sup> The Commission adopted Rule 17g-1 and Form NRSRO as part of the broader NRSRO rulemaking in 2007. The Commission subsequently adopted rule amendments increase the disclosure obligations of NRSROs on Form NRSRO.<sup>3</sup>

Rule 17g-1 and Form NRSRO contain recordkeeping and disclosure requirements. The collection of information obligations imposed by Rule 17g-1 and Form NRSRO is mandatory. Rule 17g-1 and Form NRSRO, however, apply only to credit rating agencies that are applying to register or are registered with the Commission as NRSROs, and registration is voluntary.

Rule 17g-1 requires a credit rating agency to furnish an initial application on Form NRSRO.<sup>4</sup> The rule also provides that if information on the application becomes materially inaccurate before the Commission has granted or denied the application, the credit rating agency must promptly notify the Commission and amend the application with accurate and complete information by submitting an amended initial application on Form NRSRO. Rule 17g-1 also provides that a credit rating agency could withdraw its application before the Commission takes final action on it by furnishing the Commission with a written notice of withdrawal executed by a duly authorized person. Once the application has been approved, Section 15E(b)(1) of the Exchange Act requires an NRSRO to promptly amend the application if any information or document provided as part of the application becomes materially inaccurate.<sup>5</sup> Rule 17g-1 provides that an NRSRO is required to furnish the amendment to the Commission on Form NRSRO.

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<sup>1</sup> Pub. L. No. 109-291.

<sup>2</sup> Exchange Act Release No. 55857 (June 5, 2007), 72 FR 33564 (June 18, 2007).

<sup>3</sup> Exchange Act Release No. 59342 (February 2, 2009), 74 FR 6456 (February 9, 2009).

<sup>4</sup> This provision was implemented under the Commission’s authority in Section 15E(a)(1)(A) of the Exchange Act to prescribe the form of the application (15 U.S.C. 78o-7(a)(1)(A)); see also Release No. 34-55857 (June 5, 2007), 72 FR 33564 (June 18, 2007).

<sup>5</sup> 15 U.S.C. 78o-7(b)(1).

Section 15E(a)(3) of the Exchange Act provides that the Commission, by rule, must require an NRSRO, after registration, to make certain that the information submitted in its completed application and any amendments are made publicly available on its website or through another comparable, readily accessible means.<sup>6</sup> It also permits the Commission to determine by rule the information that must be made publicly available.<sup>7</sup> Rule 17g-1 requires that the information be made publicly available within 10 business days of the NRSRO being registered or furnishing an amendment to the application.

A credit rating agency may apply to be registered for fewer than all five categories of credit ratings described in Section 3(a)(62)(B) of the Exchange Act.<sup>8</sup> Rule 17g-1 provides that an NRSRO registered for fewer than the five categories may apply to be registered with respect to an additional category by furnishing an amended Form NRSRO and indicating where appropriate on the Form the additional category for which it is applying to be registered.

Section 15E(b)(2) of the Exchange Act requires an NRSRO to furnish the Commission with an amendment to its registration not later than 90 days after the end of each calendar year in a form prescribed by Commission rule (the “annual certification”).<sup>9</sup> This section further provides that the amendment must (1) certify that the information and documents provided in the application for registration (except the QIB certifications) continue to be accurate and (2) list any material change to the information and documents that occurred during the previous calendar year. Rule 17g-1 implements these statutory provisions by requiring an NRSRO to furnish the annual certification on Form NRSRO.

Finally, Section 15E(e)(1) of the Exchange Act provides that an NRSRO may withdraw from registration, subject to terms and conditions the Commission may establish as necessary in the public interest or for the protection of investors, by furnishing the Commission with a written notice of withdrawal.<sup>10</sup> Rule 17g-1 provides that an NRSRO must furnish the Commission with a withdrawal of registration on Form NRSRO.

In 2009, the Commission adopted amendments to Form NRSRO, which require an NRSRO to provide enhanced disclosure of performance measurements statistics and the procedures and methodologies used by the NRSRO in determining credit ratings for structured finance products and other debt securities on Form NRSRO.<sup>11</sup>

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<sup>6</sup> 15 U.S.C. 78o-7(a)(3).

<sup>7</sup> Section 15E(a)(3) of the Exchange Act (15 U.S.C. 78o-7(a)(3)).

<sup>8</sup> Section 15E(a)(1)(B)(vii) of the Exchange Act (15 U.S.C. 78o-7(a)(1)(B)(vii)) provides that a credit rating agency must submit information with its application regarding the categories of credit ratings described in Section 3(a)(62)(B) of the Exchange Act (15 U.S.C. 78c(a)(62)(B)) for which it “intends to apply for registration.”

<sup>9</sup> 15 U.S.C. 78o-7(b)(2).

<sup>10</sup> 15 U.S.C. 78o-7(e)(1).

<sup>11</sup> See supra note 3.

## **2. Purpose and Use of the Information Collection**

Rule 17g-1, Form NRSRO, and the Instructions for Form NRSRO create a registration program for NRSROs. The collections of information in the rules are designed to allow the Commission to determine whether an entity should be registered as an NRSRO. Further, they assist the Commission in effectively monitoring, through its examination function, whether an NRSRO is conducting its activities in accordance with Section 15E of the Exchange Act and Exchange Act rules.

These rules also are designed to assist users of credit ratings by requiring the disclosure of information with respect to an NRSRO that could be used to compare the credit ratings quality of different NRSROs. The information may include: methods for determining credit ratings; organizational structure; policies for managing material, non-public information; information regarding conflicts of interest; policies for managing conflicts of interest; credit analyst experience; and management experience. As noted in the Senate Report accompanying the Act, the information that NRSROs will have to make public “will facilitate informed decisions by giving investors the opportunity to compare ratings quality of different firms.”<sup>12</sup>

## **3. Consideration Given to Information Technology**

Form NRSRO is designed to be downloadable from the Commission website, and information could be entered on the Form and stored electronically. The Form, however, is currently submitted in paper format.

## **4. Duplication**

The Commission believes that there are no federal rules that duplicate, overlap, or conflict with the proposed rules.

## **5. Effect on Small Entities**

The Commission staff believes that there could be as many as six NRSROs that are considered small entities. These small entities are affected by Rule 17g-1 and Form NRSRO when amend their applications and submit annual certifications. In addition, there may be a few additional credit rating agencies that may apply to become registered as NRSROs in the coming years. These small entities may be affected by the rule in the event that they apply for registration as an NRSRO.

## **6. Consequences of Not Conducting Collection**

The information would be collected in accordance with the Credit Rating Agency Reform Act of 2006, which specifies when applications for registration, amendments to applications, and annual certifications must be collected.

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<sup>12</sup> See Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 3850, Credit Rating Agency Reform Act of 2006, S. Report No. 109-326, 109<sup>th</sup> Cong., 2d Sess. (Sept. 6, 2006).

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

The Commission has reviewed its collection responsibilities and does not believe there are any inconsistencies with the guidelines set forth in 5 CFR 1320.5(d)(2).

**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**

The Commission did not provide any payment or gift to respondents in connection with the proposed rulemaking.

**10. Confidentiality**

The confidentiality of the information submitted to the Commission in the reports required under the proposed rule will be protected only to the extent permitted by FOIA.

**11. Sensitive Questions**

The Commission's proposal should not result in the Commission receiving sensitive information. To the extent that the Commission receives information that is sensitive to an NRSRO, the Commission will protect the confidentiality of such information to the extent permitted by FOIA.

**12. Burden of Information Collection**

Thus, the Commission estimates that there are ten NRSROs that are subject to Rule 17g-1 and Form NRSRO. The Commission estimates that it will receive approximately one NRSRO application during the collection period (approximately 0.33 applicants per year) going forward based upon its discussions with potential NRSRO applicants. The Commission estimates that the average time necessary to complete the initial Form NRSRO, and compile the various attachments, is approximately 300 hours of reporting burden per applicant. This estimate is based on staff experience with working with NRSROs during the application process. Therefore the Commission estimates that credit rating applicants will incur 300 hours of initial reporting burden to comply with this requirement.<sup>13</sup>

As noted, Rule 17g-1 requires a credit rating agency to provide the Commission with a written notice if it intends to withdraw its application prior to final Commission action. Based on staff experience, the Commission estimates that one credit rating agency during the collection period (approximately 0.33 per year) will withdraw a Form NRSRO prior to final Commission

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<sup>13</sup> 300 hours x 0.33 NRSROs per year X 3 year collection period = 300 hours.

action on the application and, consequently, will furnish a notice of its intent to withdraw the application. Based on the Commission staff's experience in receiving notices of NRSRO withdrawals, the Commission estimates the average reporting burden to an NRSRO to furnish the notice of withdrawal will be five hours. Thus, the Commission estimates that the aggregate annual burden to the industry of providing a notice of withdrawal prior to final Commission action will be 1.67 hours of reporting burden per year.<sup>14</sup>

Rule 17g-1 also provides that an NRSRO registered for fewer than the five categories of credit ratings listed in Section 3(a)(62)(B) of the Exchange Act could apply to be registered for an additional category by furnishing an amendment on Form NRSRO.<sup>15</sup> Based on its experience, the Commission believes that it takes an NRSRO substantially less time to update the Form NRSRO for this purpose than to prepare the initial application. For example, much of the information on the Form and many of the exhibits are still current and not have to be updated. Based on its experience with administering the rule, the Commission estimates that filing an amended Form NRSRO for this purpose will take an average of approximately 25 hours.

The Commission further estimates based on staff experience that approximately one of the nine NRSROs will apply to register for additional categories of credit ratings per year. The Commission believes the most likely additional category of credit ratings for which NRSROs are likely to register is for issuers of asset-backed securities (as that term defined in 17 CFR 229.1101(c)).<sup>16</sup> This determining a credit rating for an asset-backed security takes specialized expertise beyond that required for determining credit ratings of corporate issuers and obligors. For example, it requires analysis of complex legal structures. Historically, the category has also generated high level of fees for NRSROs

Based on staff experience, the Commission estimates that approximately one NRSRO will apply to add another category of credit ratings to their registration per year. Therefore, staff estimates that NRSROs will incur 25 hours of reporting burden to comply with the requirement to update its Form NRSRO to add a new credit rating category.<sup>17</sup>

There are currently nine NRSROs registered with the Commission. Based on staff experience, the Commission believes that there will likely be at least one additional credit rating agency that successfully registers as an NRSRO during the collection period. Therefore, the Commission estimates that there are ten NRSROs that will be impacted by this information collection.

Section 15E(b)(1) of the Exchange Act requires an NRSRO to promptly amend its application for registration if any information or document provided in the application becomes materially inaccurate. Rule 17g-1 requires an NRSRO to comply with this statutory requirement

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<sup>14</sup> 5 hours x 1 NRSRO / 3 years of collection period = 1.67 hours.

<sup>15</sup> See Rule 17g-1(e).

<sup>16</sup> Section 3(a)(62)(B)(iv) of the Exchange Act (15 U.S.C. 78c(a)(62)(B)(iv)).

<sup>17</sup> 25 hours x 1 Form NRSRO update.

by furnishing the amendment on Form NRSRO. Based on staff experience, the Commission estimates that an NRSRO will file two amendments of its Form NRSRO per year on average. Furthermore, for the reasons discussed above, the Commission estimates that it will take an average of approximately 25 hours to prepare and furnish an amendment on Form NRSRO. Therefore, the Commission estimates that the total aggregate annual reporting burden to the industry to update Form NRSRO will be approximately 500 hours each year.<sup>18</sup>

Section 15E(b)(2) of the Exchange Act requires an NRSRO to furnish an annual certification.<sup>19</sup> Rule 17g-1 requires an NRSRO to furnish the annual certification on Form NRSRO.<sup>20</sup> The Commission estimates that the annual certification, generally, will take less time than an amendment to Form NRSRO because it will be done on a regular basis (yearly) and, therefore, become routine over time. Based on its experience receiving annual certifications, the Commission estimates that the burden will be approximately 10 hours per year for each respondent. Therefore, the Commission estimates it will take an NRSRO approximately 10 hours to complete the annual certification, for a total aggregate annual reporting burden to the industry of 100 hours.<sup>21</sup>

Rule 17g-1 requires an NRSRO to furnish the Commission with a withdrawal of registration on Form NRSRO. Based on staff experience, the Commission estimates that one NRSRO will withdraw its registration during the collection period. Further, the instructions to Form NRSRO provide that only the items on the Form need be completed in the case of a withdrawal; an NRSRO will not need to update or attach any of the information required in the Exhibits. Based on staff's experience receiving NRSRO notices of withdrawal, the Commission estimates the average burden to an NRSRO to furnish the notice of withdrawal will be five hours. Thus, the Commission estimates that the aggregate annual reporting burden to the industry of providing a notice of withdrawal prior to final Commission action will be 1.67 hours per year.<sup>22</sup>

Section 15E(a)(3) of the Exchange Act requires an NRSRO to make the information and documents submitted in its application publicly available on its website or through another comparable readily accessible means.<sup>23</sup> Rule 17g-1 requires that this be done within 10 business days of the granting of an NRSRO's registration or the furnishing of an amendment or an annual certification.<sup>24</sup> Each NRSRO currently uses its own website to comply with Section 15E(a)(3).

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<sup>18</sup> 25 hours per amendment x 2 amendments x 10 NRSROs = 500 hours.

<sup>19</sup> 15 U.S.C. 78o-7(b)(2).

<sup>20</sup> See Rule 17g-1(g).

<sup>21</sup> 10 hours x 10 NRSROs = 100 hours.

<sup>22</sup> 5 hours x 1 NRSRO / 3 years = 1.67 hours.

<sup>23</sup> 15 U.S.C. 78o-7(a)(3).

<sup>24</sup> See Rule 17g-1(f).

The Commission estimates, based upon its experience, an initial burden of 30 hours for new NRSROs making the information available on their website for the first time and that, on average, an NRSRO will spend 10 hours per year to disclose updated information. Accordingly, the total one-time reporting burden to the industry to make Form NRSRO publicly available will be 30 hours<sup>25</sup> and the total aggregate ongoing annual reporting burden will be 100 hours.<sup>26</sup>

The Commission therefore estimates that the total one-time reporting burden arising from Rule 17g-1 and Form NRSRO is 330 hours ( $300 + 30 = 330$ ).<sup>27</sup> The Commission also estimates that the total annual reporting burden is 729 hours ( $1.67 + 25 + 500 + 100 + 1.67 + 100 = 728.35$ ) for a total aggregate time burden of 839 hours.

### **13. Costs to Respondents**

The Commission believes that there would be no additional reporting costs associated with the proposed rule, other than the costs described in Item 12 above.

### **14. Costs to Federal Government**

Based on its experience, Commission staff estimates that the review and processing of an initial Form NRSRO takes approximately 120 hours of staff time. We estimate that the hourly cost, including related overhead, is \$75 per hour. Therefore, the cost to the government to review and process the 1 application we estimate that we will receive during the collection period would be approximately \$9,000 ( $120 \text{ hours} \times 1 \text{ applications} \times \$75 = \$9,000$ ). Based on staff experience, we also estimate that it takes 5 hours to review and process amendments to Form NRSRO and 5 hours to review and process annual certifications on Form NRSRO. As discussed above, we estimate that the Commission would receive approximately 20 amendments and 10 annual certifications per year. Therefore, the cost to the government to review and process amendments and annual certifications would be approximately \$11,250 ( $5 \text{ hours} \times 30 \text{ submissions} \times \$75 = \$11,250$ ). In sum, the total cost to the government for reviewing and processing initial applications, amendments, and annual certifications on Form NRSRO would be approximately \$20,250 ( $\$9,000 + \$11,250 = \$20,250$ ).

### **15. Changes in Burden**

The reduction in the annual time burden of 5, 561 hours is attributable from the decreased estimate of the number of respondents from 30 to 10 NRSROs and the expectation of significantly fewer new NRSRO applicants during this collection period, as compared to the initial collection period, following the initial adoption of Rule 17g-1, Form NRSRO and Instructions to Form NRSRO.

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<sup>25</sup> 30 hours x 1 NRSRO = 30 hours.

<sup>26</sup> 10 hours x 10 NRSROs = 100 hours.

<sup>27</sup> For the purposes of the PRA submission, this one-time burden will be amortized over the three year approval period.

**16. Information Collection Planned for Statistical Purposes**

The Commission does not anticipate any complex analytical techniques to be used in connection with the proposed rule.

**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**

Not applicable because no exceptions to certification are contained in the proposed rule.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not involve statistical methods or analyze the information for the agency.