

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission
“Rule 17Ad-11”

A. JUSTIFICATION

1. Necessity for Information Collection

As a result of the paperwork crisis of the late 1960’s, where the number of securities transactions exceeded the securities industry’s capacity to process those transactions, Congress enacted the Securities Acts Amendments of 1975.¹ In order to establish a national system for the prompt and accurate clearance and settlement of securities transactions, Congress established a regulatory scheme for the transfer agent business. The amendments to the Securities Exchange Act of 1934 (“Exchange Act”) require transfer agents to meet minimum standards as established by the Commission in furtherance of the purposes of the Exchange Act and generally to protect investors.

Transfer agents play an integral role in the national system for the clearance and settlement of securities transactions. Transfer agents cancel certificates presented for transfer, issue new certificates to the transferee, and record the change of record ownership of securities on the issuers’ records. Transfer agents also prepare, maintain, and certify security holder records, disburse dividend and interest payments and mail security holder communications such as proxy materials and annual reports to shareholders.

To the extent that transfer agents fail to perform their activities promptly, accurately, and safely, the entire clearance settlement and transfer process suffers. Substandard performance by transfer agents can affect the accuracy of an issuer’s security holder records, which in turn could interrupt the channels of communication between issuers and shareowners. Moreover, the absence of adequate internal accounting controls in the operation of transfer agents and procedures for the safeguarding of funds and securities in the possession or control of transfer agents can provide the opportunity for significant financial loss to security holders, issuers, financial intermediaries, and securities depositories.

In 1983, the Commission adopted Rule 17Ad-11 to require registered transfer agents to report certain information to issuers and the transfer agent’s appropriate regulatory agency when “aged record differences” exceed certain dollar value thresholds. An “aged record difference” occurs when either the total number of shares (for equity securities) or total principal dollar amount (for debt securities) in the transfer agent’s official list of individual security holder accounts does not equal the number of shares or principal dollar amount authorized and issued by the issuer. In addition, the rule requires registered transfer agents to report to their appropriate regulatory agency in the event of a failure to post certificate detail to their official list

¹ Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

of security holder accounts within five business days of the time required by Rule 17Ad-10. Transfer agents must also maintain a copy of each report prepared under Rule 17Ad-11 for a period of three years from the date of the report.

The purposes of Rule 17Ad-11 are: (1) to provide issuers with the information necessary to make informed decisions about whether the transfer agent is performing its recordkeeping functions in a satisfactory manner and whether the amount of aged record differences is sufficiently serious to be material and therefore require disclosure to security holders; and (2) to provide regulatory authorities with information concerning the source and extent of aged record differences and information regarding transfer agents that are experiencing difficulties in creating and maintaining security holder records.

The reports required by 17Ad-11, in conjunction with transfer agent reports required under Rule 17Ad-2 (notices of noncompliance with the turnaround and processing performance standards), provide regulatory authorities with information regarding those transfer agents that are not performing their functions promptly or accurately. Under Rule 17Ad-11, however, the regulatory authorities are only informed when the threshold is breached. When this occurs, regulatory authorities can focus their attention on those transfer agents whose performance may represent potential harm to investors or a threat to the smooth operation of the national system for clearance and settlement.

The Commission adopted Rule 17Ad-11 pursuant to authority under Sections 17, 17A, and 23(a) of the Exchange Act.²

2. Purposes and Use of the Information Collection

The reports required to be sent by transfer agents to issuers under Rule 17Ad-11 are used by issuers in determining whether and what corrective action is necessary to resolve the operational difficulties disclosed by the transfer agent performing functions for the issuer's securities. The reports required to be sent to the appropriate regulatory agency under the rule are used by the agency in fulfilling its regulatory and oversight responsibilities under the Exchange Act. Without this information, regulatory authorities would not be informed as to those transfer agents that are not performing their functions promptly and accurately. Transfer agents that are not properly performing their operations pose potential harm to investors who depend on an efficient operation of the national system of clearance and settlement.

3. Consideration Given to Information Technology

Most transfer agent processing systems are automated and those automated systems enable transfer agents to easily identify when reports must be made under the rule. There are no legal or technical obstacles that, if removed, would reduce burdens.

² 15 U.S.C. 78q, 78q-1 and 78w(a).

4. Duplication

We are not aware of duplication of this information.

5. Effect on Small Entities

Because the information is already available to transfer agents, any collection burden for small businesses is minimal.

6.) Consequences of Not Conducting Collection

Less frequent reporting under the rule would allow transfer agents experiencing operational difficulty and financial liability to continue operating in such a manner, with a potential for further operational deterioration, without informing issuers or appropriate regulatory agencies. Such a situation would greatly increase risks to public investors and to the national system for clearance and settlement.

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

There are no special circumstances. This collection is consistent with the guidelines 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 of Gift to Respondents

No payment or gift is provided to respondents.

10. Confidentiality

No assurances of confidentiality are provided.

11. Sensitive Questions

Not applicable; no information of a sensitive nature is required.

12. Burden of Information Collection

Based on a review of the number of Rule 17Ad-11 reports the Commission, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, "ARAs") received since 2009, the

Commission staff estimates that 10 respondents will file a total of approximately 12 reports annually. The Commission staff estimates that, on average, each report can be completed in 30 minutes. Therefore, the total annual hourly burden to the entire transfer agent industry is approximately six hours (30 minutes multiplied by 12 reports). Assuming an average hourly rate of a transfer agent staff employee of \$25, the average total internal cost of the report is \$12.50. The total annual internal cost of compliance for the approximate 10 respondents is approximately \$150.00 (12 reports x \$12.50).

13. Costs to Respondents

Not applicable. Respondents will not incur any cost burdens other than those indicated in 12 above.

14. Costs to the Federal Government

The cost to the federal government is based on agency staff time and related overhead devoted to review the Rule 17Ad-11 reports. Although the number of reports filed and staff time needed to review each report are difficult to predict, the Commission estimates that 12 reports are filed with all the appropriate regulatory agencies and, on average, 1 hour of staff time is needed to review each report. Based on these estimates and the GSA Guide to Estimating Reporting Costs (1973), the cost to the Federal Government is approximately \$411.20.

15. Changes in Burden

The reduction in the estimated respondent reporting and total annualized cost burdens from the previous submission in 2009 is attributable to the decrease in the total number of transfer agents registered under the Exchange Act, which resulted in a decrease in the number of reports that the Commission estimates the ARAs receive annually (approximately 100 in 2006 to approximately 30 in 2009 to approximately 12 in 2012).

16. Information Collection Planned for Statistical Purposes

Not Applicable. The information collection is not used for statistical purposes.

17. Approval to Omit OMB Expiration Date

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

18. Exceptions to Certification

This collection complies with the requirements in 5 CFR 1320.9.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.