

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
“Rule 17g-4”

A. JUSTIFICATION

1. Necessity of Information Collection

The Credit Rating Agency Reform Act of 2006¹ (“Rating Agency Act”), enacted on September 29, 2006, defines the term “nationally recognized statistical rating organization” (“NRSRO”), provides authority for the Securities and Exchange Commission (“Commission”) to implement registration, recordkeeping, financial reporting, and oversight rules with respect to NRSROs, and directs the Commission to issue implementing rules no later than 270 days after its enactment.

The rules adopted under the Rating Agency Act contain recordkeeping and disclosure requirements. The collection of information obligations imposed by the rules is mandatory. The rules, however, apply only to credit rating agencies that are applying to register or are registered with the Commission as NRSROs, and registration is voluntary.

The Rating Agency Act added a new section 15E, “Registration of Nationally Recognized Statistical Rating Organizations,”² to the Securities Exchange Act of 1934 (“Exchange Act”). Exchange Act section 15E(g)(1)³ requires an NRSRO to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information in violation of the Exchange Act or the rules or regulations thereunder. Section 15E(g)(2) of the Exchange Act provides that the Commission must issue rules requiring an NRSRO to establish specific policies or procedures reasonably designed to prevent the misuse of material nonpublic information.⁴ Rule 17g-4 implements this statutory provision by requiring that an NRSRO’s written policies and procedures to prevent the misuse of material nonpublic information include policies and procedures reasonably designed to prevent: (a) the inappropriate dissemination of material nonpublic information obtained in connection with the performance of credit rating services; (b) a person within the NRSRO from trading on material nonpublic information; and (c) the inappropriate dissemination of a pending credit rating action.⁵ The policies and procedures required by Rule 17g-4 must be attached as Exhibit 3 to Form NRSRO,⁶ which form must be retained for three years after the date the record is made or received.⁷

¹ Pub. L. No. 109-291.

² 15 U.S.C. 78o-7.

³ 15 U.S.C. 78o-7(g)(1).

⁴ 15 U.S.C. 78o-7(g)(2).

⁵ See 17 CFR 240.17g-4; Release No. 34-55231 (Feb. 2, 2007), 72 FR 6378 (Feb. 9, 2007); Release No. 34-55857 (June 5, 2007), 72 FR 33564 (June 18, 2007).

⁶ Commission, *Application for Registration as a Nationally Recognized Statistical Rating Organization (NRSRO)*, available at <http://www.sec.gov/about/forms/formnrsro.pdf>.

⁷ See 17 CFR 240.17g-2(c).

2. Purpose and Use of the Information Collection

The collection of information required by Rule 17g-4 is necessary for Commission oversight of NRSROs registered or applying to register with the Commission. Specifically, the policies and procedures required by Rule 17g-4 are designed to ensure that an NRSRO establishes adequate procedures and controls to protect material nonpublic information and prevent its misuse.

3. Consideration Given to Information Technology

Rule 17g-4 requires NRSROs to have written policies and procedures to prevent the misuse of material nonpublic information. This record could be made and retained electronically. The Commission believes that improvements in telecommunications and data processing technology may reduce any burdens associated with Rule 17g-4. NRSROs are not prevented by Rule 17g-4 from using computers or other electronic devices to generate the records required under Rule 17g-4. However, Form NRSRO, which includes the policies required under Rule 17g-4 as an exhibit thereto, must be physically mailed to the Commission to effectuate filing.

4. Duplication

We are not aware of duplication of this information because NRSROs are not otherwise required to establish and maintain the policies and procedures required by Rule 17g-4.

5. Effect on Small Entities

Small entities may be affected by the rule because all NRSROs, regardless of size, are required to have written policies and procedures to prevent the misuse of material nonpublic information. Currently, there are 10 NRSROs and, based on their most recently filed annual reports pursuant to Rule 17g-3, one NRSRO is a small entity, as defined under section 601(3) of the Regulatory Flexibility Act.⁸

6. Consequences of Not Conducting Collection

If the required activities were not conducted or were conducted less frequently, the Commission would be unable to ascertain, on an ongoing basis, whether an NRSRO had written policies and procedures to prevent the misuse of material nonpublic information. Thus, the protection afforded to the public would be diminished.

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 Release No. 34-64514 (May 18, 2011), 76 FR 33420 (June 8, 2011).

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

No payment or gift is provided to respondents.

10. Confidentiality

The information collection under Rule 17g-4 is not confidential.

11. Sensitive Questions

Not applicable. No information of a sensitive nature is required.

12. Burden of Information Collection

The Commission expects that most credit rating agencies will already have procedures in place to address the specific misuses of material nonpublic information identified in Rule 17g-4.⁹ The 10 credit rating agencies currently registered with the Commission have already established policies and procedures in conformance with the rule. The Commission anticipates that, in the future, some newly-registered NRSROs may need to modify their procedures to comply with the specific procedures required by the rule, and based on staff experience, the Commission estimates that it would take approximately 50 hours, on a one-time start-up basis, for an NRSRO to establish procedures in conformance with the rule. However, the Commission does not currently anticipate any new NRSROs, so there is currently no one-time start-up burden associated with the rule.

There are 10 credit rating agencies registered with the Commission as NRSROs under section 15E of the Exchange Act, which have already established the policies and procedures required by Rule 17g-4. Based on staff experience, an NRSRO is estimated to spend an average of approximately 10 hours per year reviewing the policies and procedures regarding material nonpublic information and updating them (if necessary), resulting in an average industry-wide annual hour burden of approximately 100 hours.¹⁰

⁹ For example, the International Organization of Securities Commissions' Code of Conduct Fundamentals for Credit Rating Agencies requires credit rating agencies to develop such procedures (available at <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD271.pdf>).

¹⁰ 10 currently registered NRSROs x 10 hours = 100 hours.

13. Cost to Respondents

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

14. Costs to Federal Government

It is estimated that there are no additional costs to the federal government.

15. Changes in Burden

The estimated burden on respondents is calculated based on the 10 credit rating agencies currently registered with the Commission as NRSROs under section 15E of the Exchange Act (instead of the 30 estimated NRSROs under the prior Paperwork Reduction Act information collection submission for Rule 17g-4). Since these 10 entities have already established policies and procedures in conformance with the rule, there are no (50 hour per entity) one-time start-up burdens associated with the rule as were previously estimated in the prior submission. In addition, Commission staff estimate that NRSROs will spend an average of 10 hours per year reviewing and updating the policies and procedures required by Rule 17g-4 (instead of the 0 hours per year previously estimated). Thus, the change in the industry-wide aggregate burden from 1,500 to 100 hours is due to a reduction in the number of credit rating agencies used in calculating the burden, the lack of start-up burdens, and the addition of annual review and updating burdens.

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

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

18. Exceptions to Certification for Paperwork Reduction Act Submissions

Not applicable. This collection complies with the requirements in 5 CFR 1320.9.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection of information does not employ statistical methods.