

SUPPORTING STATEMENT - RULE 17Ad-17

A. Justification

(1) Necessity for Information Collection

As a result of the paperwork crisis that occurred in the late 1960's, during which 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 provided for a scheme of regulation with respect to the business of being a transfer agent. Those 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' securityholder records. They also prepare, maintain, and certify securityholder records, disburse dividend and interest payments, and mail securityholder communications such as proxy materials and annual reports to shareholders.

To the extent 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 securityholder records and thereby 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 securityholders, issuers, financial intermediaries, and securities depositories.

Rule 17Ad-17 is designed to enhance the accuracy of records of transfer agents. Under Rule 17Ad-17, transfer agents are required to exercise reasonable care to maintain the correct address of each securityholder in its master file. As a part of such reasonable care, transfer agents are required to make two searches for the correct address of lost securityholders² using an information database service without charge to the lost securityholders. The initial search must be carried out within three and twelve months after the securityholder becomes lost and the second search must be carried out between six and twelve months after the initial search.

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

² Rule 17Ad-17(b)(2) defines a "lost securityholder" as a securityholder to whom an item of correspondence that was sent to the securityholder at the address contained in the transfer agent's master securityholder file has been returned as undeliverable.

The Commission originally adopted Rule 17Ad-17 in 1997 pursuant to authority under Section 17A of the Exchange Act. Section 929W of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”)³ directed the Commission to extend the search requirements of Rule 17Ad-17 to brokers and dealers and to add a requirement to Rule 17Ad-17 to oblige paying agents to notify unresponsive payees that a paying agent has sent a securityholder a check that has not yet been negotiated.

(2) Purposes of and Consequences of Not Requiring the Collection of Information

The purpose of Rule 17Ad-17 is to reduce the number of lost securityholders by requiring transfer agents to conduct two database searches for correct addresses for the lost securityholders. Without the requirement, transfer agents could use different methods to locate lost securityholders which could result in different standards of investor protection.

(3) Consideration Given to Information Technology

Transfer agents have the option to deliver the names of the lost securityholders to third party database vendors by electronic, tape, or paper submissions.

(4) Duplication

No other requirement exists with respect to the information required to be reported under the Rule.

(5) Effects on Small Entities

To the extent that some transfer agents covered by the rule are small entities, the rule impacts those entities. However, that impact is mitigated by the lower number of lost securityholders for which those firms should be responsible.

(6) Consequences of Less Frequent Collection

If the information is collected less frequently, investors are deprived of their assets for longer periods of time and the searches are less likely to result in a corrected address.

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

The collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

(8) Consultations Outside the Agency

The Commission communicated with various individuals and companies involved in the

³ Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

securities transfer industry concerning the public burdens of Rule 17Ad-17. We also received public comment letters from 14 persons, including 6 letters from trade associations, two transfer agents, a broker-dealer, and five individuals. Two of the trade associations indicated that the rule would be burdensome. The Securities Industry and Financial Markets Association (“SIFMA”) stated that extending the requirement to search for lost securityholders (who were considered lost when their mail was returned as undeliverable) from only transfer agents to brokers and dealers, as expressly required by Section 17A(g)(1) of the Securities Exchange Act, would be burdensome on brokers and dealers because they have more public contacts and mailings than do transfer agents. We could not address these points because they were changes required by statute. SIFMA also said that the new requirements “could be significantly more burdensome” than the Commission estimated in its proposing release, particularly the required searches for lost securityholders and the costs per search. The American Bar Association also commented that the Commission’s estimates on the expenses of searches for lost securityholders were too low, and Wells Fargo Advisors, a brokerage firm, provided similar comments. The Commission responded to these comments on costs and burdensomeness by substantially revising and increasing the estimates for both the number and the cost of expected searches for lost securityholders and for other costs enumerated in the rule, including the costs of required notifications to securityholders of unnegotiated checks.

(9) Payment of Gift

Not applicable.

(10) Confidentiality

This rule does not involve the collection of confidential information.

(11) Sensitive Questions

No questions of a sensitive nature are asked.

(12) Estimate of Respondent Reporting Burden

This estimate of the respondent reporting burden incorporates: (1) the analysis contained in the Paperwork Reduction Act section of the Commission’s January 2013 release adopting mandated amendments to 17Ad-17 as required by the Dodd-Frank Act⁴ and (2) new estimated burdens on transfer agent industry, which must comply with ongoing requirements.

In summary, the total estimated burden of Rule 17Ad-17 is 125,379 burden hours, which consists of the following components:

⁴ Securities Exchange Act Release No. 68668 (Jan. 16, 2013), 78 FR 4768 (Jan. 23, 2013) (“Adopting Release”) at Section III.

- 33,333 hours associated with approximately *500 transfer agents* conducting, reporting, and maintaining records associated with 2,000,000 database searches;
- 54,107 hours associated with approximately *4,705 brokers and dealers* conducting, reporting, and maintaining records associated with 650,000 searches;
- 37,937 hours associated with approximately *3,035 paying agents* making 758,750 notifications to unresponsive payees plus associated recordkeeping burdens.

We account for these estimates by analyzing the burdens of Rule 17Ad-17 on each affected entity:

a. Transfer Agents

Rule 17Ad-17(a) requires transfer agents to conduct searches for lost or missing securityholders. The Commission estimates that each search and associated reporting burden on SEC Form TA-2 for transfer agents will take a total of 1 minute per search and that the transfer agent industry will conduct approximately 2,000,000 searches per year. This generates an estimated total annual hourly burden of 33,333 hours for transfer agents (2,000,000 searches divided by 60 minutes).

b. Brokers and Dealers

We estimate that each search for a lost or missing securityholder by brokers and dealers will take approximately 5 minutes and that those brokers and dealers will conduct about 650,000 searches per year. This generates an estimated total annual hourly burden for brokers and dealers of approximately 54,107 hours (650,000 searches times five minutes divided by 60 minutes, rounded up).

c. Paying Agents

We estimate that each paying agent notification to an unresponsive payee in conformity with Rule 17Ad-17 will take approximately 3 minutes per notification and that paying agents will issue 758,750 notifications per year. This generates an estimated total annual hourly burden on paying agents of approximately 37,937 hours (758,750 notifications times 3 minutes divided by 60 minutes).

(13) Estimate of Total Annualized Cost Burden

Rule 17Ad-17 imposes approximately \$92,897,760 in regulatory costs for transfer agents, brokers, dealers, and paying agents. This cost is accounted for by the following categories:

a. Capital and start-up costs

Entities subject to Rule 17Ad-17 could incur costs to purchase or maintain computer hardware and software in order to identify lost accounts, conduct database searches, monitor

search status, communicate with shareholders and third parties, and maintain records. These costs may be substantially moderated for regulated entities like transfer agents, brokers, and dealers, who must already maintain extensive sets of records regarding securityholders, including their contacts with such persons. Thus, the incremental cost associated with Rule 17Ad-17 compliance is likely to be relatively small. The costs incurred by paying agents in fulfilling their new Rule 17Ad-17 obligations to notify unresponsive payees are less certain, and the Commission currently lacks reliably accurate data on the number of unresponsive payees. Therefore, unlike brokers and dealers that conducted such searches before being required to do so under new Rule 17Ad-17, certain paying agents face higher fixed costs to set up the systems and procedures to perform their new regulatory obligations.

Nonetheless, we estimate that of the 8,240 entities subject to Rule 17Ad-17, 2,472 (30%) of them will acquire new systems and technology in the form of computer hardware and software over the next three years. Using estimates of \$20,000 for hardware and \$10,000 for software, and assuming that each entity will make one hardware and one software purchase over the next three years, each firm will on average spend \$10,000 per year (\$30,000 for three years divided by 3 years times 2,472 firms). This yields a total annual capital and start-up cost of \$24,720,000.

b. Operations and Maintenance

Entities subject to Rule 17Ad-17 will incur costs associated with generating, maintaining, and disclosing or providing lost securityholder information.

In a 2001 study, the Government Accountability Office found that approximately 40% of transfer agents and brokers and dealers spent less than \$10 per lost account to search for lost securityholders, though larger firms were likely to spend more, and about 10% of firms spent greater than \$40.⁵ The Commission believes this finding provides a reasonable range of cost estimates to entities subject to Rule 17Ad-17 for their obligation to search for lost securityholders or to notify unresponsive payees since there appears to be no technology, market, or other development over the last decade that would have materially increased the per-securityholder cost. Therefore, at an average cost of \$20 per search or notification, the total estimated operations and maintenance cost is approximately \$68,169,000 (\$20 per search times about 3,408,750 searches and notifications).

This cost includes the systems maintenance to perform the search and notification functions and make and keep the records required to demonstrate compliance (including the written procedures to describe their methodology for complying), including the requirement to maintain written procedures describing their methodology for complying with the rule.

(14) Estimated Cost to Federal Government

⁵ “Lost Security Holders: SEC Should Use Data to Evaluate Its 1997 Rule,” GAO Report GAO-01-978, September 2001, *available at* <http://www.gao.gov/assets/240/232703.pdf> (“GAO Report”). Even though Rule 17Ad-17 covered only transfer agents at the time of the 2001 GAO Report, the report surveyed transfer agents, brokers, and dealers in order to ascertain their activities in dealing with lost securityholders.

There is no cost to the Federal Government.

(15) Changes in Burden

The estimates provided above have significantly increased the cost and time burden of compliance with Rule 17Ad-17. The primary factor for this is that, as a result of the Dodd-Frank Act, Rule 17Ad-17 now applies to broker-dealers and paying agents, in addition to transfer agents. This means that an additional 7,740 entities are subject to the rule (over 15 times the number of entities previously subjected).

(16) Information Collection Planned for Statistical Purposes

Not Applicable

(17) Approval to Omit the OMB Expiration Date

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

(18) Exceptions to Certification

Not applicable.

B. Collection of Information Employing Statistical Methods

No statistical methods employed in connection are with the collections of information.