

**SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission**

Rule 18a-2 – Capital requirements for major security-based swap participants for which there is not a prudential regulator.

A. JUSTIFICATION

1. Necessity of Information Collection

In accordance with Section 764 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “Dodd-Frank Act”), the Securities and Exchange Commission (the “Commission”) has proposed new Rule 18a-2 to set forth capital requirements for nonbank major security-based swap participants (“MSBSPs”).¹ The rule would establish new collection of information requirements. Division staff estimates that there will be a total of 5 respondents subject to these new requirements.

Under proposed Rule 18a-2, MSBSPs would need to comply with Rule 15c3-4, which requires OTC derivatives dealers and other firms subject to its provisions to establish, document, and maintain a system of internal risk management controls to assist the firm in managing the risk associated with its business activities, including market, credit, leverage, liquidity, legal, and operational risks.

2. Purpose and Use of the Information Collection

Information collections under Rule 18a-2 would be integral parts of the Commission’s financial responsibility program for nonbank MSBSPs. This requirement would be imposed on MSBSPs because, by definition, they maintain materially large positions in security-based swap markets and would pose substantial risk to the stability of those markets should they default on their obligations.

3. Consideration Given to Information Technology

The information collections under Rule 18a-2 would not require that respondents use any specific information technology system either to prepare or submit information collections under the rule.

4. Duplication

We are not aware that this information collection duplicates any existing information collection.

¹ See Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers, Exchange Act Release No. 68071 (Oct. 18, 2012), 77 FR 70213 (Nov. 23, 2012).

5. Effect on Small Entities

The information collections that would be required under Rule 18a-2 would not place burdens on small entities. The information collections would be relevant only to market participants whose security-based swap market activity exceeds a large threshold of notional amounts, such that small market participants are exempted.

6. Consequences of Not Conducting Collection

If the required information collections were not conducted or were conducted less frequently, the protection afforded to counterparties and the U.S. financial and banking system 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. Consultations Outside the Agency

The Commission has issued a release soliciting comment on the new “collection of information” requirements and associated paperwork burdens under Rule 18a-2.² 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/comments/s7-08-12/s70812.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

No payment or gift is provided to respondents.

10. Confidentiality

The information that would be collected by the Commission under Rule 18a-2 would be kept confidential to the extent permitted by the Freedom of Information Act (5 U.S.C. § 552 *et seq.*).

11. Sensitive Questions

No information of a sensitive nature would be required under Rule 18a-2.

² Id.

12. Burden of Information Collection

The staff estimates that Rule 18a-2 will require in total, on an industry-wide basis, (1) a one-time burden of 10,000 recordkeeping hours, and (2) an annual burden of 1,250 recordkeeping hours.

The staff estimates that 5 or fewer non-bank entities would register with the Commission as MSBSPs. These MSBSPs would be required to establish, document, and regularly review and update risk management control systems with respect to market, credit, leverage, liquidity, legal and operational risks. Based on similar estimates for OTC derivatives dealers, the Commission staff believes that an MSBSP would spend approximately 2,000 hours to implement its risk management control system, resulting in a one-time industry-wide hours burden of 10,000 recordkeeping hours.³

Based on similar estimates for OTC derivatives dealers, the staff further estimates that these firms would spend approximately 250 hours per year reviewing and updating their risk management control systems, resulting in an annual industry-wide hours burden of 1,250 recordkeeping hours.⁴

13. Costs to Respondents

Nonbank MSBSPs are unlikely to have internal expertise at the outset with respect to risk management control systems that would be required under Rule 18a-2. The staff therefore estimates that these firms will hire an outside management consultant for approximately 200 hours, for a one-time external recordkeeping cost of \$26,666.66 per respondent and a total industry cost of \$133,333,⁵ annualized over 3 years.

The information technology systems of a nonbank MSBSP may be in varying stages of readiness to meet the requirements of Rule 18a-2, so the staff estimates that these firms will incur start-up and ongoing costs related to information technology. Based on the estimates for similar collections of information, the Commission staff expects that a nonbank MSBSP would incur an average of approximately \$16,000 for initial hardware and software external expenses, which, over three years, equals an annualized cost of \$5,333.33 per nonbank MSBSP.⁶ This would result in a one-time industry-wide external cost of \$26,667,⁷ annualized over 3 years. The average ongoing external cost would be approximately \$20,500 per nonbank MSBSP. This would also result in an ongoing annual industry-wide external recordkeeping cost of \$102,500.⁸

³ 5 MSBSPs x 2,000 hrs = 10,000 hrs.

⁴ 5 MSBSPs x 250 hrs/year = 1,250 hrs/year.

⁵ 5 MSBSPs x 200 hrs x \$400/hr / 3 years = \$133,333.

⁶ \$16,000 / 3years = \$5,333.33

⁷ 5 MSBSPs x \$16,000 / 3 years = \$26,667.

⁸ 5 MSBSP x \$20,500 = \$102,500.

14. Cost to Federal Government

The staff does not anticipate this information collection to impose additional costs to the Federal Government.

15. Changes in Burden

Not applicable. The information collection is related to a new rule.

16. Information Collected 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

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

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable. This collection does not employ statistical methods.