

SUPPORTING STATEMENT
for the Paperwork Reduction Act Collection Submission
for Rule 602 of Regulation NMS

A. Justification

1. Necessity of Information Collection

Section 11A(a)(2) of the Securities Exchange Act of 1934 (“Exchange Act”) directs the Securities and Exchange Commission (“Commission”) to use its authority under the Exchange Act to facilitate the establishment of a national market system in which, among other things, brokers, dealers, and investors have access to information on securities quotations and transactions. Moreover, the Commission is authorized, under Sections 11A(c)(1)(B) and (F) of the Exchange Act, to assure the prompt, accurate and reliable distribution of quotation information and to assure the fairness and usefulness of the form and content of such information. To achieve these statutory objectives, the Commission promulgated Rule 11Ac1-1, designated as Rule 602 of Regulation NMS, 17 CFR 242.602.¹

Rule 602 contains two related collections of information. The first collection of information is found in Rule 602(a). This reporting requirement obligates each national securities exchange and national securities association to make available to quotation vendors for dissemination to the public the best bid, best offer, and aggregate quotation size for each “subject security,” as defined under the Rule. The second collection of information is found in Rule 602(b). This reporting requirement obligates each exchange member and over-the-counter (“OTC”) market maker that is a “responsible broker or dealer,” as defined under the Rule, to communicate to an exchange or association its best bids, best offers, and quotation sizes for subject securities.²

2. Purpose and Use of the Information Collection

Each of the collections is necessary to achieve the statutory objective of disseminating high-quality quotation information to the public. Brokers, dealers, other

¹ Regulation NMS redesignated the national market system rules previously adopted under Section 11A of the Exchange Act. Securities Exchange Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

² Under Rule 602(b)(5), electronic communications networks (“ECNs”) have the option of reporting to an exchange or association for public dissemination, on behalf of customers that are OTC market makers or exchange market makers, the best-priced orders and the full size for such orders entered by market makers on the ECN, to satisfy such market makers’ reporting obligation under Rule 602(b). Since this reporting requirement is an alternative method of meeting the market makers’ reporting obligation, and because it is directed to nine or fewer persons (ECNs), this collection of information is not subject to OMB review under the Paperwork Reduction Act (“PRA”).

market participants, and members of the public rely on the quotation information required by Rule 602 to determine the best price and market for execution of investor orders. In the absence of these collections of information, investors may not be aware of the best bids and offers available from all significant market participants in securities. Not requiring the information would impair the opportunity for investors to have their orders executed in the best market, which is another important objective of the national market system set forth in Section 11A(a)(1)(C)(iv) of the Exchange Act.

3. Consideration Given to Information Technology

Improved information technology facilitates the dissemination of quotation information in an accurate and timely fashion. Such technology enables persons subject to Rule 602 to collect the required information electronically. Thus, the Commission believes that improved technology reduces the burden imposed by these information collections.

4. Duplication

The required information is not duplicative of any other information collection.

5. Effect on Small Entities

The 16 national securities exchanges and one national securities association obligated to report under Rule 602(a) are not small entities as defined by Commission rules. For the reporting obligations under Rule 602(b), only 30 of the 2076 exchange members are small entities. In addition, as noted in Section 12 of this submission, all OTC market makers currently comply with the Rule by providing their quotations to an exchange of which they are a member. Thus, the proportion of respondents under Rule 602(b) that are small entities is very low. In addition, an OTC market maker must have an executed volume of more than 1% of the aggregate reported volume in an exchange-traded security to trigger the quoting requirements of Rule 602(b). Small broker-dealers that are OTC market makers are likely to cross this 1% reporting threshold in a small number of NMS stocks. Accordingly, their burden of collection is likely to be significantly less than the average burden of collection for all respondents under Rule 602(b).

6. Consequences of Not Conducting Collection

The information is collected as each quotation is communicated. Accordingly, any less frequent collection would deprive the public of information on the best prices for a security and undermine the purposes of Rule 602.

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 or Gift

Not applicable.

10. Confidentiality

No assurances of confidentiality are necessary because the information will be made available to the public.

11. Sensitive Questions

Not applicable. Rule 602 does not require information of a sensitive nature. The information collection does not include any Personally Identifiable Information (PII).

12. Burden of Information Collection

The aggregate reporting burden under Rule 602 is 27,750 hours annually, which is comprised of 4,250 hours relating to Rule 602(a) and 23,500 hours relating to Rule 602(b), as explained in further detail below.

a. Rule 602(a)

For the reporting obligation under Rule 602(a), the respondents are the sixteen national securities exchanges and one national securities association.³ The Commission

³ The sixteen national securities exchanges registered with the Commission under Section 6(a) of the Exchange Act are: BATS Exchange Inc.; BATS Y Exchange, Inc.; BOX Options Exchange LLC; Chicago Board Options Exchange, Incorporated; C2 Options Exchange, Incorporated; Chicago Stock Exchange, Inc.;

estimates that each exchange or association on average will respond (i.e., disseminate and update bids, offers, and quotation sizes to quotation vendors) approximately 49,408,510,743 times per year.⁴ The Commission estimates that the average annual time burden for each national securities exchange or national securities association is 250 hours⁵ which results in an annual aggregate burden for all respondents under Rule 602(a) of 4,250 hours (250 x 17).⁶

b. Rule 602(b)

For the reporting obligation under Rule 602(b), the respondents are exchange members and OTC market makers.

With respect to exchange members, the highly automated trading systems now operated by securities exchanges have transformed the nature of trading and the communication of quotations on an exchange. Exchange members that communicate a quotation on an exchange through its automated systems necessarily will also have communicated that quotation to the exchange in compliance with Rule 602(b). As a result, the communication of quotations through an exchange's electronic trading system effectively means that members currently have no reporting burden under Rule 602(b) for these quotations. While a few exchanges continue to operate manual trading floors in conjunction with their automated trading systems, the Commission believes that these exchanges have provided their floor members with automated means to communicate on the exchange any quotations that would fall within the requirements of Rule 602(b), and that such automated communication on the exchange also would comply with Rule 602(b). The manual trading floors generally are used for more specialized types of

EDGA Exchange, Inc.; EDGX Exchange, Inc.; International Securities Exchange LLC; The Nasdaq Stock Market LLC; NASDAQ OMX BX, Inc.; NASDAQ OMX PHLX, Inc.; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Amex, Inc.; and, NYSE Arca, Inc. The one national securities association registered with the Commission under Section 15A of the Exchange Act is the Financial Industry Regulatory Authority, Inc. (previously, the National Association of Securities Dealers, Inc.).

⁴ The Commission derived the average number of responses per national securities exchange or national securities association as follows: 839,944,682,631 (total number of responses in 2012) / 17 (the total number of national securities exchanges and national securities associations in 2013) = average annual number of responses per respondent under 602(a).

⁵ The Commission derived the annual time burden for each national securities exchange or national securities association from the following: 4,250 hours (aggregate burden for all respondents in hours) / 17 (number of respondents) = 250 hours (total annual burden for each respondent in hours).

⁶ Accordingly, the time per response under Rule 602(a) is: 49,408,510,743 annual responses per respondent / 250 annual burden hours per respondent = approximately 18.22 microseconds per response under Rule 602(a).

trading services, such as price improvement auctions and various types of facilitation and exposure mechanisms for large orders that do not fall within the requirements of Rule 602(b).

With respect to OTC market makers, Rule 602(b) applies to quotations that are communicated to a broker or dealer or customer otherwise than on an exchange. The Commission estimates that there currently are approximately 150 OTC market makers responsible for more than 1% of the trading volume in an exchange-traded security. All such OTC market makers comply with Rule 602(b) by providing their quotations to an exchange rather than to an association.⁷ The Commission estimates that each OTC market maker on average will respond 188,000 times per year. This figure is based on a 252 trading day year. The total annual time burden for each OTC market maker is estimated to be 156.67 hours (188,000 x .00083333). These figures are based on an estimate of three seconds per response (*i.e.*, the time it takes to update a quote). The annual aggregate burden for all OTC market makers is estimated to be 23,500 hours (156.67 x 150).⁸

13. Costs to Respondents

Not applicable.

14. Costs to Federal Government

There is no estimated operation cost for the federal government associated with Rule 602.

15. Changes in Burden

a. Rule 602(a)

The estimated time burdens have been adjusted upward to reflect the fact that, since the last time the SEC sought OMB approval for the collection of information pursuant to Rule 602(a), the number of registered national securities exchanges has increased from fifteen to seventeen.

⁷ In 2006, the Commission granted an exemption from Rule 602 that permits OTC market makers that also are exchange members to provide their best bids and offers to an exchange, without the necessity of also providing their best bids and offers to an association.

⁸ Accordingly, the time per response under Rule 602(b) is: 188,000 annual responses per respondent / 156.67 annual burden hours per respondent = approximately 3.00 seconds per response under Rule 602(b).

b. Rule 602(b)

The estimated time burdens have been adjusted upward to reflect the fact that, since the last time the SEC sought OMB approval for the collection of information pursuant to Rule 602(b), the number of OTC market maker respondents has increased from 130 to 150.

As discussed in Section 12 of this submission, the use of exchanges' automated trading systems by exchange members effectively results in exchange members having no reporting burden under Rule 602(b).

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 expiration date.

18. Exceptions to Certification

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

B. Collections of Information Using Statistical Methods

This collection does not involve statistical methods.