

**SUPPORTING STATEMENT
for the Paperwork Reduction Act
Information Collection Submission for
Rule 17a-2**

A. Justification

1. Necessity of Information Collection

a. Background

Congress granted broad rulemaking authority to the Commission in Sections 9(a)(2), 10(b), and 15(c) under the Securities Exchange Act of 1934 (Exchange Act) to combat manipulative abuses in whatever form they may take. In exercising its authority, the Commission has focused on the market activities of persons participating in a securities offering and determined that securities offerings present special opportunities for manipulation that require specific regulatory attention. Rule 17a-2, which requires records be kept when underwriters engage in stabilizing and certain aftermarket activities, dates back to 1939, but took much of its current form in 1983 when the Commission adopted amendments which placed the recordkeeping burden on the manager of the underwriting syndicate or group. On December 20, 1996, the Commission adopted Regulation M which governs the activities of underwriters, issuers, selling security holders, and others in connection with a securities offering generally and also harmonized Rule 17a-2 with Regulation M. Regulation M significantly eased regulatory burdens on offering participants by eliminating the trading restrictions for underwriters of actively traded securities; reducing the scope of coverage for other securities; reducing restrictions on issuer plans; providing a more flexible framework for stabilizing transactions; and deregulating rights offerings.

b. Overview of Rule 17a-2

Rule 17a-2 and Rule 104 of Regulation M work together to regulate underwriters engaging in syndicate covering, stabilization, and penalty bid transactions. A person subject to Rule 104 is required, among other things, to keep the information and make the notification required by 17a-2. Rule 17a-2 requires managers of underwriting syndicates or groups to keep certain records when they engage in syndicate covering, stabilizing, or penalty bid transactions. Rule 17a-2 also requires that members of the underwriting syndicate or group who engage in those activities to notify the manager of the syndicate or group, who must then make the records required in the rule.

c. Information Collection Requirements

Rule 17a-2 requires managing underwriters to keep records of syndicate covering transactions and penalty bids, in addition to stabilizing information. The records must reflect the name and class of securities, the price, date, and time for each stabilizing purchase or syndicate covering transaction and whether any penalties were assessed, the names and addresses of the syndicate group members, and their respective commitments. Members of syndicates must notify the manager of their syndicate if they engage in these activities as well. If the manager receives this

notification, the manager must then make the same records required as if they engaged in the activity themselves.

The Commission believes that this recordkeeping requirement imposes little, if any, additional burden as underwriters already are required to keep detailed syndicate account records. The information is required to be maintained in a separate file, for a period of three years, the first two in an accessible place.

2. Purpose and Use of the Information Collection

The records required pursuant to Rule 17a-2 are used by the Commission in examinations or investigations of underwriting activities and to review aftermarket activity.

3. Consideration Given to Information Technology

Improvements in telecommunication and data processing technology reduce regulatory burdens that might otherwise result from Rule 17a-2. The Commission is not aware of any technical or legal obstacles to reducing the burden through the use of improved information technology.

4. Duplication

The information required by each of the rules described herein does not duplicate that required by any other federal regulations. At the time Regulation M and related amendments to Rule 17a-2 were proposed, the Commission solicited and received comments without receiving any reference to federal regulations that may duplicate the requirements mandated by Rule 17a-2. The Commission continues to believe that there is no duplication of the information required by the rules described herein.

5. Effect on Small Entities

The information requirements of Rule 17a-2 apply equally to all entities, regardless of the entity's size. Although Rule 17a-2 requires additional records concerning stabilizing bids, penalty bids, and syndicate covering transactions, the Commission believes this imposes little, if any, additional burden because underwriters already are required to keep detailed syndicate account records. Further, the Commission believes that broker-dealers that act as distribution participants (and are thus subject to the rule) are unlikely to qualify as small entities. The majority of the recordkeeping burden in Rule 17a-2 lies with the manager of an underwriting syndicate which, due to the capital requirements necessary to maintain such a role, is unlikely to be a role an entity that could qualify as a small entity could retain.

6. Consequences of Not Conducting Collection

Rule 17a-2 requires managing underwriters to keep records of syndicate covering transactions and penalty bids, in addition to stabilizing information. The information is collected as each transaction warrants and therefore there is no way to require less frequent collection without undermining the purposes of the rule.

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 assurance of confidentiality is provided.

11. Sensitive Questions

No questions of a sensitive nature are asked. The information collection does not collect any Personally Identifiable Information (PII).

12. Burden of Information Collection

The Commission estimates that creating and maintaining records pursuant to this rule requires five hours per offering, however, most of the records required pursuant to this rule are already retained as a matter of practice. In 2012, there were 795 firm commitment underwritten offerings. Thus, there are 795 respondents and the recordkeeping required under the rule would require an estimated 3,975 hours annually for all respondents (five hours times 795 respondents).

There are internal labor compliance cost burdens associated with this rule. The Commission estimates that a typical employee of a broker-dealer charged to ensure compliance with Commission regulations receives compensation of \$63.00 per hour. The \$63.00 per hour figure for a Compliance Clerk is from SIFMA's Office Salaries in the Securities Industry 2012, modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. Based on that estimate, the Commission estimates that the

annual internal salary cost of compliance for Rule 17a-2 is \$250,425.00 (\$63.00 per hour times 795 hours).

13. Costs to Respondents

It is not anticipated that respondents will have to incur any capital and start up cost to comply with the rule nor is it anticipated that the respondents will have to incur any additional operational or maintenance costs to comply with the rule.

14. Costs to Federal Government

The government does not experience significant costs based on the recordkeeping required pursuant to Rule 17a-2. The information collected by the respondents is normally reviewed only pursuant to an investigation, not as a matter of routine.

15. Changes in Burden

The increase in annual burden hours from 3,725 to 3,975 is due to an increase in the amount of firm commitment underwritten offerings from 745 to 795.

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 expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. Collections of Information Employing Statistical Methods

This collection does not involve statistical methods.