

SUPPORTING STATEMENT

for the Paperwork Reduction Act Information Collection Submission for Rule 15b11-1 and Form BD-N

A. Justification.

1. Necessity of Information Collection

The Securities Exchange Act of 1934 (“Exchange Act”) was enacted by Congress to regulate the nation’s securities markets and the securities professionals who participate in those markets. The Exchange Act establishes a regulatory scheme for broker-dealers to effect transactions in securities. In addition, the Exchange Act and the rules promulgated thereunder require broker-dealers to meet minimum standards designed to protect investors.

In 2000, Congress enacted the Commodity Futures Modernization Act of 2000 (“CFMA”).¹ Among other purposes, the CFMA permits the trading of security futures products. Security futures products are defined as securities for purposes of the Exchange Act, and as futures contracts for purposes of the Commodity Exchange Act. The CFMA added Section 15(b)(11) to the Exchange Act, which provides that futures commission merchants (“FCMs”) and introducing brokers (“IBs”) that are registered with the Commodity Futures Trading Commission (“CFTC”) may register with the Commission as broker-dealers for the purpose of effecting transactions in security futures products by filing a written notice with the Commission.²

To implement the foregoing statutory provisions of the Exchange Act, the Commission has promulgated Rule 15b11-1 (17 C.F.R. 240.15b11-1) and Form BD-N (17 C.F.R. 249.501b) to serve as the form of notice for futures commission merchants and introducing brokers that register as broker-dealers by notice pursuant to Section 15(b)(11)(A) of the Exchange Act. Specifically, the form requires a broker-dealer registering by notice to indicate whether it is filing a notice registration to conduct a securities business in security futures products and if so, that it satisfies the statutory conditions for notice registration. These items enable the Commission and other regulators to identify notice-registered broker-dealers.

¹ Pub. L. No. 106-554, Appendix E, 114 Stat. 2763.

² 15 U.S.C. 78o(b)(11).

2. Purpose and Use of the Information Collection

Form BD-N is used to elicit basic identification information as well as information that allows the Commission staff to ensure that the futures commission merchants and introducing brokers meet the statutory conditions to register by notice pursuant to Section 15(b)(11) of the Exchange Act. Without the information elicited by the Form BD-N, the Commission would be unable to fulfill its regulatory obligations.

3. Consideration Given to Information Technology

Applicants for notice registration as broker-dealers file Form BD-N with the National Futures Association (“NFA”), similar to the manner in which they file Forms required to register as an FCM or IB. This method of collection reduces the regulatory burden upon notice-registered broker-dealers by permitting them to file applications for registration and amendments thereto at one central location, rather than filing Form BD-N separately with the Commission and other regulators.

4. Duplication

Not applicable. No duplication of the requirement of Rule 15b11-1 exists.

5. Effect on Small Entities

Not applicable. Rule 15b11-1 applies uniformly to all entities.

6. Consequences of Not Conducting Collection

Applicants for notice registration as broker-dealers generally are required to file Form BD-N only once to register and are required to file amendments to Form BD-N only when information originally reported in Form BD-N changes or becomes inaccurate. Therefore, less frequent collection for Form BD-N information would impair the accuracy of the information available to the Commission and decrease the protections afforded to investors.

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

When creating Form BD-N, the Commission staff consulted with the NASD and staff of the CFTC.

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

The Commission makes the information obtained on Form BD-N available to the public.

11. Sensitive Questions

Form BD-N asks no questions of a sensitive nature. The collection is covered under the Systems of Records Notice (SORN) (SEC-49) [Broker-Dealer Records](#). The Privacy Impact Assessment (PIA) is provided as a supplemental document.

12. Burden of Information Collection

As of April 19, 2013, 277 entities were notice registered with the Commission. NFA received one initial application on Form BD-N in calendar year 2010, two in calendar year 2011, four in calendar year 2012, and one for the period January 1, 2013 through November 13, 2013. Based on this data, Commission staff estimates that NFA will receive approximately two initial applications annually on Form BD-N.³ Commission staff has previously estimated that the average time necessary to complete the initial Form BD-N is approximately 30 minutes.⁴ The Commission staff estimates that total annual burden hours required for filing initial Forms BD-N is approximately one hour.⁵

Once registered on Form BD-N, notice-registered broker-dealers are required to file amendments to Form BD-N when information originally reported in Form BD-N changes or becomes inaccurate. On average, approximately 58 amendments to Form BD-N were received annually by NFA to amend registrants' addresses from January 2010 to November 2013.⁶ Based on this data, Commission staff estimates that NFA will receive approximately the same number of amendments annually on Form BD-N. Commission staff has previously estimated that the average time necessary to complete an amendment to Form BD-N is approximately 15 minutes.⁷ Therefore, Commission staff estimates that the total annual burden hours for filing Form BD-N amendments by notice-registered broker-dealers is approximately 15 hours.⁸

The Commission staff previously estimated the total annual filing burden for Form BD-N and Form BD-N amendments to be 8 hours. As the number of initial applications filed on Form BD-N decreased yet the number of amendments received on the Form BD-N increased since the

³ (1 initial application + 2 initial applications + 4 initial applications + ((1 initial application / 11 months) x 12 months)) = 8.09 total initial applications / 4 years = 2.02 initial applications annually.

⁴ Securities Exchange Act Release No. 44730 (August 21, 2001), 66 FR 45138.

⁵ (2 initial applications x 0.5 hours per application) = 1 hour.

⁶ (227 amendments filed/3.92 years) = 57.9 amendments annually.

⁷ Securities Exchange Act Release No. 44730 (August 21, 2001), 66 FR 45138.

⁸ (58 amendments per year x 0.25 hours per amendment) = 14.5 hours (which rounds to 15 hours).

last filing with OMB, Commission staff estimates that the total annual filing (reporting) burden associated with Rule 15b11-1 and Form BD-N has increased to 16 hours.⁹

The Commission believes that a broker-dealer would have a compliance department employee, at \$269 per hour,¹⁰ ensure that the firm is compliant with filing and amending Form BD-N. Therefore, the Commission estimates that the annualized cost to respondents of the burden associated with filing and amending Form BD-N is approximately \$4170.¹¹

13. Costs to Respondents

The Rule does not impose any costs aside from those associated with the burden hours discussed in item 12 above.

14. Costs to Federal Government

Because the NFA has agreed to accept and process all applications for notice-registered broker-dealers on Form BD-N electronically, the cost to the federal government of processing a Form BD-N for purposes of Rule 15b11-1 is negligible.

15. Changes in Burden

The Commission staff's estimated total annual filing burden for initial applications and amendments filed on Form BD-N increased from 8 to 16 hours. The Commission staff's estimate of initial applications decreased from ten to two based on the average number of initial applications filed from January 1, 2013 through November 13, 2013. This decrease reduced the estimated burden by four hours.¹² The estimate of amendments filed on an annual basis increased from 11 to 58 amendments based on the 227 address amendments filed on Form BD-N during

⁹ (1 hour for initial application + 14.5 hours for amendments) = 15.5 hours (which rounds to 16 hours).

¹⁰ This figure (\$269/hour) is the salary given for a Compliance Manager in the Securities Industry and Financial Markets Association's Report on Management & Professional Earnings in the Securities Industry 2012, modified by the Commission to account for an 1,800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

¹¹ 15.5 hours x \$269 = \$4169.50.

¹² (2 initial applications x .5 hours per application = 1 hour) – (10 initial applications previously estimated x .5 hours per application = 5 hours) = - 4 hours.

the period January 2010 to November 2013. This increase raised the burden by 12 hours.¹³ Thus, the total burden increased 8 hours.¹⁴

16. Information Collections Planned for Statistical Purposes

Not applicable.

17. Approval to Omit OMB Expiration Date

Not applicable.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

Not applicable.

B. Collection of Information Employing Statistical Methods

Not applicable. The collection of information on Form BD-N does not employ statistical methods.

¹³ (58 amendment filings x .25 hours per amendment = 14.5 hours) – (11 amendment filings previously estimated x .25 hours per amendment = 2.75 hours) = 11.75 (rounded to 12).

¹⁴ (12 hour increase for amendment filings – 4 hour decrease for initial applications) = 8 hours.