

**SUPPORTING STATEMENT
for the Paperwork Reduction Act
Information Collection Submission for
Rule 15g-2**

A. Justification

1. Necessity of Information Collection

Section 15(c)(2) of the Securities Exchange Act of 1934 (“Exchange Act”) authorizes the Commission to promulgate rules that prescribe means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices in connection with over-the-counter securities (“OTC”) transactions. Pursuant to this authority, on July 7, 2005, the Commission amended Exchange Act Rule 15g-2 (the “Rule”) to provide an explicit “cooling-off period” to replace the implicit period that customers traditionally have had when the disclosure documents required by the penny stock rules are provided by postal mail rather than electronically.

Rule 15g-2(a) prohibits a broker-dealer from effecting a transaction in a penny stock with or for the account of a customer unless the broker-dealer distributes to the customer, prior to effecting a transaction in a penny stock, a disclosure document, as set forth in Schedule 15G, and receives a signed and dated acknowledgement of receipt of that document from the customer in tangible form. The document (“penny stock disclosure document”), which must contain the information set forth in Schedule 15G, gives several important warnings to investors concerning the penny stock market, and cautions investors against making a hurried investment decision. Rule 15g-2 requires broker-dealers to provide their customers with a penny stock disclosure document, as set forth in Schedule 15G under the Exchange Act, prior to each customer's first non-exempt transaction in a penny stock.

The 2005 amendments to Rule 15g-2(b) impose a uniform waiting period of two business days that can be satisfied by waiting two days after sending the penny stock disclosure document required by the rule electronically or by mail or some other paper-based means. As amended, the rule prohibit a broker-dealer from effecting a transaction in a penny stock for or with the account of a customer unless, prior to effecting the transaction, the broker-dealer distributes to the customer a penny stock disclosure document, and has obtained from the customer a signed and dated acknowledgement of receipt of that document. The amendments to Rule 15g-2 were designed to preserve parity between electronic and paper communications in the context of the disclosure requirements of the penny stock rules.

Rule 15g-2(c) requires broker-dealers to maintain a copy of the customer’s written acknowledgement for at least three years following the date on which the risk disclosure document was provided to the customer, the first two years in an accessible place. Lastly, Rule 15g-2(d) requires a broker-dealer, upon request of a customer, to furnish the customer with a copy of certain information set forth on the Commission’s website.

2. Purpose and Use of the Information Collection

In adopting Rule 15g-2, the Commission sought to combat the unscrupulous, high-pressure sales tactics of certain broker-dealers by imposing objective and readily reviewable requirements that discipline the process by which new customers are induced to purchase low-priced stocks. The requirements were intended to assist investors in protecting themselves from fraudulent sales practices, and also to reinforce a broker-dealer's suitability obligations, which are long-standing obligations under self-regulatory organization ("SRO") rules.

An essential aspect of high-pressure "boiler-room" operations is the constant solicitation of new, and often unsophisticated, customers. The Rule disciplines this process by establishing account opening procedures that must be followed before penny stocks are recommended to unsophisticated new customers. The penny stock disclosure document gives several important warnings to investors concerning the penny stock market, and cautions investors against making a hurried investment decision. Among other things, the penny stock disclosure document points out that salespersons are not impartial advisors, that investors should compare information from the salesperson with other information on the penny stock, and that investors in penny stocks should be prepared for the possibility of losing their whole investment. As a result of these procedures, the customer has an opportunity to review the determination and decide whether the broker-dealer has made a good faith attempt to consider the customer's financial situation, investment experience and investment objectives.

The consequences of not requiring the information specified in the Rule would be a substantial weakening of the Rule's effectiveness. The Commission believes that certain broker-dealers engaging in abusive sales practices in connection with penny stocks may choose to ignore the requirements of the Rule. The Rule therefore requires records to be kept that indicate their compliance with each of its provisions. This documentation enables regulatory authorities to review a broker-dealer's compliance with the Rule, and provides the basis for simple and direct enforcement actions against broker-dealers that fail to comply.

3. Consideration Given to Information Technology

No specific consideration was given to using information technology to reduce this burden, however a majority of broker-dealers do utilize technology to comply with the rule.

4. Duplication

Broker-dealers are not otherwise required to obtain the written agreement to purchases required by the Rule. The penny stock rules mandate that broker-dealers disclose certain information about the market for penny stocks and the particular penny stock transaction to customers with whom they do business in penny stocks, while the Rule requires broker-dealers who do such business to obtain certain information from customers acknowledging receipt of the penny stock disclosure documents.

5. Effect on Small Entities

The Commission believes that the changes incorporated in the Rule, in particular its 2005 amendments, substantially reduce the Rule's effect on legitimate broker-dealers and issuers. The Commission also believes that the significant potential for sales practice abuse and manipulation in connection with the transactions covered by the Rule justifies the Rule.

6. Consequences of Not Conducting Collection

As stated at Section 2 above, the Rule disciplines the "boiler room" process by establishing account opening procedures that must be followed before penny stocks are recommended to unsophisticated new customers. The penny stock disclosure document gives several important warnings to investors concerning the penny stock market, and cautions investors against making a hurried investment decision. As a result of these procedures, the customer has an opportunity to review the determination and decide whether the broker-dealer has made a good faith attempt to consider the customer's financial situation, investment experience and investment objectives.

The consequences of requiring such disclosure less frequently would be a substantial weakening of the Rule's effectiveness because each new customer would not receive the required warning. Furthermore, any less frequent recordkeeping would jeopardize the ability of the Commission and the SROs to monitor compliance with the requirements 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

No payments or gifts are provided to any respondents.

10. Confidentiality

The information is not confidential. In fact, this information is subject to inspection by the Commission and the various SROs.

11. Sensitive Questions

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

12. Burden of Information Collection

There are approximately 221 broker-dealers that could potentially be subject to current Rule 15g-2. The Commission estimates that approximately 5% of registered broker-dealers are engaged in penny stock transactions, and thereby subject to the Rule (5% x approximately 4,410 registered broker-dealers = 221 broker-dealers). The Commission estimates that each one of these firms processes an average of three new customers for penny stocks per week. Thus, each respondent processes approximately 156 penny stock disclosure documents per year. If communications in tangible form alone are used to satisfy the requirements of Rule 15g-2, then the copying and mailing of the penny stock disclosure document takes no more than two minutes. Thus, the total associated burden is approximately 2 minutes per response, or an aggregate total of 312 minutes per respondent. Since there are 221 respondents, the current annual burden is 68,952 minutes (312 minutes per each of the 221 respondents) or 1,150 hours for this third party disclosure burden. In addition, broker-dealers incur a recordkeeping burden of approximately two minutes per response when filing the completed penny stock disclosure documents as required pursuant to the Rule 15(g)(2)(c), which requires a broker-dealer to preserve a copy of the written acknowledgement pursuant to Rule 17a-4(b) of the Exchange Act. Since there are approximately 156 responses for each respondent, the respondents incur an aggregate recordkeeping burden of 68,952 minutes (221 respondents x 156 responses for each x 2 minutes per response) or 1,150 hours, under Rule 15g-2. Accordingly, the current aggregate annual hour burden associated with Rule 15g-2 (assuming that all respondents provide tangible copies of the required documents) is approximately 2,300 hours (1,150 third party disclosure hours + 1,150 recordkeeping hours).

The burden hours associated with Rule 15g-2 may be slightly reduced when the penny stock disclosure document required under the rule is provided through electronic means such as e-mail from the broker-dealer (e.g., the broker-dealer respondent may take only one minute, instead of the two minutes estimated above, to provide the penny stock disclosure document by e-mail to its customer). In this regard, if each of the customer respondents estimated above communicates with his or her broker-dealer electronically, the total ongoing respondent burden is approximately 1 minute per response, or an aggregate total of 156 minutes (156 customers x 1 minutes per respondent). Assuming 221 respondents, the annual third party disclosure burden, if electronic communications were used by all customers, is 34,476 minutes (156 minutes per each of the 221 respondents) or 575 hours. If all respondents were to use electronic means, the recordkeeping burden would be 68,952 minutes or 1,150 hours (the same as above). Thus, if all broker-dealer respondents obtain and send the documents required under the rules electronically, the aggregate annual hour burden associated with Rule 15g-2 is 1,725 (575 hours + 1,150 hours).

In addition, if the penny stock customer requests a paper copy of the information on the Commission's website regarding microcap securities, including penny stocks, from his or her broker-dealer, the printing and mailing of the document containing this information takes no more than two minutes per customer. Because many investors have access to the Commission's website via computers located in their homes, or in easily accessible public places such as libraries, then, at most, a quarter of customers who are required to receive the Rule 15g-2 disclosure document request that their broker-dealer provide them with the additional microcap and penny stock information posted on the Commission's website. Thus, each broker-dealer

respondent processes approximately 39 requests for paper copies of this information per year or an aggregate total of 78 minutes per respondent (2 minutes per customer x 39 requests per respondent). Since there are 221 respondents, the estimated annual burden is 17,238 minutes (78 minutes per each of the 221 respondents) or 288 hours. This is a third party disclosure type of burden.

We have no way of knowing how many broker-dealers and customers will choose to communicate electronically. Assuming that 50 percent of respondents continue to provide documents and obtain signatures in tangible form and 50 percent choose to communicate electronically to satisfy the requirements of Rule 15g-2, the total aggregate burden hours is 2,301 ((aggregate burden hours for sending disclosure documents and obtaining signed customer acknowledgments in tangible form x 0.50 of the respondents = 1,150 hours) + (aggregate burden hours for electronically signed and transmitted documents x 0.50 of the respondents = 863 hours) + (288 burden hours for those customers making requests for a copy of the information on the Commission's website)).

13. Costs to Respondents

There are no capital, start-up or other external costs on respondents associated with the rule.

14. Costs to the Federal Government

There are no costs to the federal government associated with these rules.

15. Changes in Burden

There was an overall decrease in the total burden hours because the number of registered broker-dealers has decreased.

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. Collection of Information Employing Statistical Methods

This collection does not involve statistical methods.