

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
Rule 17f-6

A. JUSTIFICATION

1. Necessity for the Information Collection

Rule 17f-6 (17 CFR 270.17f-6) under the Investment Company Act of 1940 (15 U.S.C. 80a) permits registered investment companies (“funds”) to maintain assets (*i.e.*, margin) with futures commission merchants (“FCMs”) in connection with commodity transactions effected on both domestic and foreign exchanges. Before the rule was adopted, funds generally were required to maintain those assets in special accounts with a custodian bank. The rule was designed to eliminate unnecessary regulatory burdens, and to enable funds to effect their commodity trades in the same manner as other market participants.

Rule 17f-6 permits funds to maintain their assets with FCMs that are registered under the Commodity Exchange Act (“CEA”) and that are not affiliated with the fund. The rule requires that a written contract containing the following provisions govern the manner in which the FCM maintains a fund’s assets:

- The FCM must comply with the segregation requirements of section 4d(2) of the CEA (7 U.S.C. 6d(2)) and the rules under that statute (17 CFR Chapter I) or, if applicable, the secured amount requirements of rule 30.7 under the CEA (17 CFR 30.7);
- If the FCM places the fund’s margin with another entity for clearing purposes, the FCM must obtain an acknowledgment from the clearing organization that the fund’s assets are held on behalf of the FCM’s customers in accordance with provisions under the CEA; and
- Upon request the FCM must furnish records about the fund’s assets to the Commission or its staff.

2. Purpose of the Information Collections

The rule requires a fund and an FCM to enter into a written contract that contains three safeguards relating to the custody of fund assets by the FCM. First, the requirement that FCMs comply with segregation or secured amount requirements is designed to protect fund assets held by FCMs. Second, the requirement that an FCM obtain an acknowledgement from any entity upon which it relies to clear fund transactions accommodates the legitimate needs of the participants in the commodity settlement process, while ensuring that fund assets are protected. The requirement that FCMs must furnish to the Commission or its staff upon request information concerning the fund's assets does not constitute a collection of information.

3. Role of Improved Information Technology

The Commission's Electronic Data Gathering, Analysis, and Retrieval System ("EDGAR") provides for the automated collection, processing, and dissemination of full disclosure filings. The automation provides for speed, accuracy, and public availability of information, generating benefits to investors and financial markets. While EDGAR currently is limited to disclosure and fund deregistration filings, EDGAR may be used in the future to obtain other types of information from sources outside the Commission, such as information requested by the Commission or its staff in connection with an inspection of fund margin in an FCM's custody. The Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001) and the conforming amendments to recordkeeping rules under the Investment Company Act permit funds to maintain records electronically.

4. Duplication

The Commission sought to avoid duplication of requirements imposed under the CEA and Commodity Futures Trading Commission (“CFTC”) rules that more generally govern custody of customer margins by FCMs and clearinghouses. Thus, for example, rule 17f-6 does not require FCMs to maintain daily financial ledger records of fund margin deposits or to supply funds with monthly account statements. FCMs and their customers typically enter into a contract when an FCM is retained to effect commodities transactions, and the rule requires certain terms for contracts with an FCM’s fund clients, some of which incorporate requirements under the CEA.

5. Effect on Small Entities

The information collection requirements of rule 17f-6 apply to all funds, including those that are small entities. The Commission believes that the costs of complying with the rule are minimal and do not impose a significant burden on small entities.

6. Consequences of Less Frequent Collection

The contract requirements of rule 17f-6 do not recur periodically, but rather have to be followed only when a fund enters into a contract with an FCM. Less frequent collection would not be consistent with the Commission’s investor protection objectives.

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

None.

8. Consultation Outside the Agency

The Commission requested public comment on the collection of information requirements of rule 17f-6 before it submitted this request for extension and approval to the

Office of Management and Budget. The Commission received no comments in response to its request.

In addition, the Commission and its staff participate in an ongoing dialogue with representatives of the fund industry through public conferences, meetings, and informal exchanges. These various forums provide the Commission and the staff with a means of ascertaining and acting upon paperwork burdens confronting the industry.

9. Payment or Gift

Not applicable.

10. Assurance of Confidentiality

Not applicable.

11. Sensitive Questions

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

12. Estimate of Hour Burden

As discussed above, the only collection of information requirements of rule 17f-6 are the rule's requirements that contracts between funds and FCMs must contain certain provisions requiring the FCM to engage in certain activities to safeguard the custody of fund assets by the FCM.

Because rule 17f-6 does not impose any ongoing obligations on funds or FCMs, Commission staff estimates there are no costs related to *existing* contracts between funds and FCMs. This estimate does not include the time required by an FCM to comply with the rule's contract requirements because, to the extent that complying with the contract provisions could be

considered “collections of information,” the burden hours for compliance are already included in other PRA submissions.¹

Thus, Commission staff estimates that any burden of the rule would be borne by funds and FCMs entering into *new* contracts pursuant to the rule. Commission staff estimates that approximately 291 fund complexes and 965 funds currently effect commodities transactions and could deposit margin with FCMs in connection with those transactions pursuant to rule 17f-6.² Staff further estimates that of this number, 29 fund complexes and 97 funds enter into new contracts with FCMs each year.³

Based on conversations with fund representatives, Commission staff understands that fund complexes typically enter into contracts with FCMs on behalf of all funds in the fund complex that engage in commodities transactions. Funds covered by the contract are typically listed in an attachment, which may be amended to encompass new funds. Commission staff estimates that the burden for a fund complex to enter into a contract with an FCM that contains

¹ The rule requires a contract with the FCM to contain two provisions requiring the FCM to comply with existing requirements under the CEA and rules adopted thereunder. Thus, to the extent these provisions could be considered collections of information, the hours required for compliance would be included in the collection of information burden hours submitted by the CFTC for its rules.

² This estimate is based on the number of funds that reported on Form N-SAR from June 1, 2014 – November 30, 2014, in response to items (b) through (i) of question 70, that they engaged in futures and commodity option transactions.

³ These estimates are based on the assumption that 10% of fund complexes and funds enter into new FCM contracts each year. This assumption encompasses fund complexes and funds that enter into FCM contracts for the first time, as well as fund complexes and fund that change the FCM with whom they maintain margin accounts for commodities transactions.

the contract requirements of rule 17f-6 is one hour, and further estimates that the burden to add a fund to an existing contract between a fund complex and an FCM is 6 minutes.

Accordingly, Commission staff estimates that funds and FCMs spend 39 burden hours annually complying with the information collection requirements of rule 17f-6.⁴ At \$380 per hour of professional (attorney) time, Commission staff estimates that the annual dollar cost for the 39 hours is \$14,820.⁵

13. Estimate of Total Annual Cost Burden

The rule is not estimated to impose any burdens other than those discussed in item 12 above.

14. Estimate of Cost to the Federal Government

The rule does not impose any additional costs on the Federal government.

15. Explanation of Changes in Burden

The change in the estimate of burden hours from the previous PRA submission is attributable to a change in the methodology used to calculate the number of funds that rely on the rule. The previous estimate of 96 hours was based upon the number of funds and fund complexes that had the ability to engage in futures and commodity option transactions, while the current estimate of 39 hours is based upon the number of funds and fund complexes that

⁴ This estimate is based upon the following calculation: (29 fund complexes x 1 hour) + (97 funds x 0.1 hours) = 39 hours.

⁵ The \$380 per hour figure for an attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013*, modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

currently effect futures and commodity option transactions. The net change in burden hours is a decrease of 57 hours.

16. Information Collection Planned for Statistical Purposes

Not applicable.

17. Approval to Omit OMB Expiration Date

The Commission is not seeking approval to omit the expiration date.

18. Exceptions to Certification Statement

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.