

**SUPPORTING STATEMENT for the Paperwork Reduction Act Information Collection**  
**Submission for Rule 301: Requirements for Alternative Trading Systems**

This submission is being made pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 et seq.

**A. JUSTIFICATION**

1. Necessity of Information Collection

A. Regulation ATS

The Securities Exchange Act of 1934, as amended (“Exchange Act”),<sup>1</sup> sets forth a scheme of self-regulation in which national securities exchanges have primary responsibility for regulating their members and enforcing compliance by members and their associated persons with the Exchange Act, the rules thereunder and exchange rules. Under the Exchange Act, the Commission is charged with the responsibility for supervising and assuring that exchanges comply with and advance the policies of the Exchange Act.

In the 1975 Amendments to the Exchange Act,<sup>2</sup> Congress specifically endorsed the development of a national market system (“NMS”) and sought to clarify and strengthen the Commission’s authority to promote the achievement of such a system. The growing use of technology has made it possible for commercial entities to centralize trading without the use of a floor, members or a non-profit structure.

Regulation ATS provides a regulatory structure that directly addresses issues related to alternative trading systems’ role in the marketplace. Regulation ATS allows alternative trading systems to choose between two regulatory structures. Alternative trading systems have the choice between registering as broker-dealers and complying with Regulation ATS or registering as national securities exchanges. Regulation ATS provides the regulatory framework for those alternative trading systems that choose to be regulated as broker-dealers.

Regulation ATS is composed of Rules 300, 301, 302, and 303. Rule 300 defines terms that provide the basis for alternative trading system regulation. Rule 301 sets forth the conditions that an alternative trading system must meet in order to be regulated as a broker-dealer. Rule 301 contains certain notice and reporting requirements, as well as additional obligations that only apply to alternative trading systems with significant volume. Rule 302 establishes a set of records relating to trading activity that the alternative trading system must make. Rule 303 establishes requirements for the preservation of certain records that alternative trading systems must make.

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<sup>1</sup> 15 U.S.C. 78a et seq.

<sup>2</sup> Pub. L. No. 29, 89 Stat. 97 (1975).

## B. Proposed Regulation SCI

Section 11A(a)(2) of the Exchange Act<sup>3</sup> directs the Commission, having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets, to use its authority under the Exchange Act to facilitate the establishment of a national market system for securities in accordance with the Congressional findings and objectives set forth in Section 11A(a)(1) of the Exchange Act.<sup>4</sup> Among the findings and objectives in Section 11A(a)(1) is that “[n]ew data processing and communications techniques create the opportunity for more efficient and effective market operations”<sup>5</sup> and “[i]t is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure . . . the economically efficient execution of securities transactions.”<sup>6</sup> In addition, Sections 6(b), 15A, and 17A(b)(3) of the Exchange Act impose obligations on national securities exchanges, national securities associations, and clearing agencies, respectively, to be “so organized” and “[have] the capacity to . . . carry out the purposes of [the Exchange Act].”<sup>7</sup>

For over two decades, Commission staff has worked with self-regulatory organizations (“SROs”) to assess their automated systems under the Commission’s Automation Review Policy (“ARP”) inspection program (“ARP Inspection Program”), a voluntary information technology review program created in response to the October 1987 market break.<sup>8</sup> In 1989, the Commission published ARP I, its first formal policy statement regarding steps that SROs should take in connection with their automated systems.<sup>9</sup> In 1991, the Commission published ARP II, in which the Commission further articulated its views on how SROs should conduct independent reviews and how SROs should notify the Commission of material systems changes and significant systems problems.<sup>10</sup>

<sup>3</sup> 15 U.S.C. 78k-1(a)(2).

<sup>4</sup> 15 U.S.C. 78k-1(a)(1).

<sup>5</sup> See 15 U.S.C. 78k-1(a)(1)(B).

<sup>6</sup> See 15 U.S.C. 78k-1(a)(1)(C)(i).

<sup>7</sup> See 15 U.S.C. 78f(b)(1), 78o-3(b)(2), 78q-1(b)(3), respectively. See also 15 U.S.C. 78b and 15 U.S.C. 78s.

<sup>8</sup> See Securities Exchange Act Release No. 27445 (November 16, 1989), 54 FR 48703, 48706 (November 24, 1989) (“ARP I”).

<sup>9</sup> See id., at 48705-48706.

<sup>10</sup> See Securities Exchange Act Release No. 29185 (May 9, 1991), 56 FR 22490, 22490-91 (May 15, 1991) (“ARP II” and, together with ARP I, the “ARP policy statements”). In 2001, Commission staff sent a letter to the SROs and other participants in the ARP Inspection Program to clarify what should be considered a “significant system change” and a “significant system outage” for purposes of reporting systems changes and problems to Commission staff. Further, in 2009, Commission staff sent a letter to the national securities exchanges and FINRA expressing the staff’s view that SROs are obligated to ensure that their systems’ operations comply with the federal securities laws

The current ARP Inspection Program was developed by Commission staff to implement the ARP policy statements, and has garnered participation by all active registered clearing agencies, all registered national securities exchanges, the Financial Industry Regulatory Authority (“FINRA”), the only registered national securities association, one exempt clearing agency, and one alternative trading system. In 1998, the Commission adopted Regulation ATS which, among other things, imposed by rule certain aspects of ARP I and ARP II on significant-volume alternative trading systems.<sup>11</sup> Thereafter, administration of these aspects of Regulation ATS was incorporated into the ARP Inspection Program.

Since the inception of the ARP Inspection Program, the securities markets have experienced sweeping changes, evolving from a collection of relatively few, mostly manual markets, to a larger number and broader variety of trading centers that are almost completely automated, and dependent upon sophisticated technology and extremely fast and interconnected systems. Regulatory developments also have impacted the structure of the markets. The increase in the number of trading venues, the dispersal of trading volume, and the resulting reliance on a variety of automated systems and intermarket linkages increased competition and thus investor choice, but also have substantially heightened the potential for systems problems originating from any number of sources to broadly affect the market.

While the Commission generally considers the ARP Inspection Program to have been successful in improving the automated systems of the SROs and other entities participating in the program over the past 20 years, the Commission is mindful of its limitations. For example, because the ARP Inspection Program is established pursuant to Commission policy statements, rather than Commission rules, the Commission’s ability to assure compliance with ARP standards with certainty or adequate thoroughness is limited. In particular, the Commission may not be able to fully address major or systemic market problems at all entities that would be covered by proposed Regulation SCI.

The Commission believes that the continuing evolution of the securities markets to the current state, where they have become almost entirely electronic and highly dependent on sophisticated trading and other technology, has posed challenges for the ARP Inspection Program. Accordingly, the Commission believes that the guidance in the ARP policy statements should be updated, formalized, and clarified. Furthermore, given the importance of ensuring that an SRO’s trading and other systems are operated in accordance with its rules, the Commission believes that improvements in SRO procedures could help to ensure that such systems are operating in compliance with relevant rules, and to promptly identify and address any instances of non-compliance.

Further, the Commission believes that recent systems issues at exchanges and other

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and rules and the SRO’s rules, and that failure to satisfy this obligation could lead to sanctions under Section 19(h)(1) of the Exchange Act.

<sup>11</sup> See 17 CFR 242.301(b)(6).

market participants further highlight why rulemaking in this area may be warranted.

Based on the foregoing, the Commission proposed Regulation SCI, which would consolidate and supersede the ARP policy statements and related staff guidance.<sup>12</sup> Further, because Regulation SCI would duplicate the requirements under Rule 301(b)(6) of Regulation ATS, the Commission is proposing to delete that rule.

## 2. Purpose and Use of the Information Collection

As noted in the last Commission submission to the OMB, Rule 301 describes the conditions with which an alternative trading system must comply to be registered as a broker-dealer. The Rule requires all alternative trading systems that wish to comply with Regulation ATS to file an initial operation report on Form ATS. The initial operation report requires information regarding operation of the system including the method of operation, access criteria and the types of securities traded. Alternative trading systems are also required to supply updates on Form ATS to the Commission, describing material changes to the system. In addition, Regulation ATS requires alternative trading systems to provide quarterly transaction reports on Form ATS-R. Alternative trading systems are also required to file cessation of operations reports on Form ATS. The gathering of such information permits the Commission to oversee the operation of such systems and track the growth of their role in the securities markets.

Currently, alternative trading systems with significant volume are required to comply with requirements for fair access and systems capacity, integrity and security. Under Rule 301, such alternative trading systems are required to establish standards for granting access to trading on the system. In addition, upon a decision to deny or limit an investor's access to the system, an alternative trading system is required to provide notice to the investor of the denial or limitation and their right to an appeal to the Commission. Regulation ATS requires alternative trading systems to preserve any records made in the process of complying with the systems capacity, integrity and security requirements. In addition, such alternative trading systems are required to notify Commission staff of material systems outages and significant systems changes.

The Commission uses the information provided pursuant to the Rule to comprehensively monitor the growth and development of alternative trading systems to confirm that investors effecting trades through the systems are adequately protected, and that the systems do not impede the maintenance of fair and orderly securities markets or otherwise operate in a manner that is inconsistent with the federal securities laws. In particular, the information collected and reported to the Commission by alternative trading systems enables the Commission to evaluate the operation of alternative trading systems with regard to national market system goals, and monitor the competitive effects of these systems to ascertain whether the regulatory framework remains appropriate to the operation of such systems.

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<sup>12</sup> The Commission is separately submitting a PRA package for proposed Regulation SCI. The OMB Control No. for Rule 301 of Regulation ATS is 3235-0509.

Without the information provided on Forms ATS and ATS-R, the Commission would not have readily available information on a regular basis in a format that will allow it to determine whether such systems have adequate safeguards. Further, in the absence of the Rule, the Commission would not regularly obtain uniform trading data to identify areas where surveillance by SROs may be more appropriately tailored to the detection of fraudulent, deceptive and manipulative practices that may be peculiar to an automated trading environment. In sum, without the data required by the proposed Rule, the Commission would be severely limited in its ability to comply with its statutory obligations, provide for the protection of investors and promote the maintenance of fair and orderly markets.

As noted above, pursuant to Rule 301(b)(6) of Regulation ATS, certain aspects of the ARP policy statements apply mandatorily to significant-volume alternative trading systems, as they are currently defined under that rule. Specifically, Regulation ATS imposes certain requirements related to capacity, integrity, and security of automated systems on significant-volume alternative trading systems, requires such alternative trading systems to preserve any records made in the process of complying with the systems capacity, integrity, and security requirements, and requires such alternative trading systems to notify Commission staff of material systems outages and significant systems changes. Because proposed Regulation SCI would duplicate the requirements under Rule 301(b)(6) of Regulation ATS, the Commission is proposing to delete that rule. The Commission is not proposing to amend any other provision of Regulation ATS.

### 3. Consideration Given to Information Technology

As noted in the last Commission submission to the OMB, ultimately, all SEC filings, including Forms ATS and ATS-R, will be considered for electronic submission. Such automation would increase the speed, accuracy and availability of information, generating benefits to investors and financial markets.

In connection with proposed Regulation SCI, the Commission is only proposing to delete Rule 301(b)(6) of Regulation ATS because it would duplicate the requirements under proposed Regulation SCI. Therefore, consideration given to information technology remains unchanged.

### 4. Duplication

As noted in Section 2 above, pursuant to Rule 301(b)(6) of Regulation ATS, certain aspects of the ARP policy statements apply mandatorily to significant-volume alternative trading systems, as they are currently defined under that rule. Because proposed Regulation SCI would duplicate the requirements under Rule 301(b)(6) of Regulation ATS, the Commission is proposing to delete that rule.

### 5. Effect on Small Entities

As noted in the last Commission submission to the OMB, the Rule is one of general applicability that mostly does not depend on the size of the system. Fair access reporting

requirements and systems capacity, integrity and security requirements apply only to alternative trading systems that have significant volume. The filing requirements on Forms ATS and ATS-R, however, apply to all alternative trading systems regardless of size. Therefore, the Rule could apply to small businesses. Pursuant to 17 CFR 240.0-10(c), the term “small business” or “small organization” when used in reference to a broker-dealer means a broker-dealer that has total capital (net worth plus subordinated liabilities) of less than \$500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to 17 CFR 240.17a-5(d) or, if not required to file such statements, a broker-dealer that had total capital of less than \$500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business); and is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in 17 CFR 240.0-10. The Commission staff estimated that 5 alternative trading systems that would register as broker-dealers are small entities as currently defined by the Act.

Because the risks that the Commission monitors in the operation of an alternative trading system occur in any size business, the Commission has determined that the Rule must apply in the same manner to small as well as large entities. Hence, the Rule does not contain an exemption for small entities. However, the Commission notes that Regulation ATS imposes additional duties on alternative trading systems that have large volumes, which are not likely to be such small entities.

In connection with proposed Regulation SCI, the Commission is only proposing to delete the systems capacity, integrity, and security requirements under Rule 301(b)(6) and no small entities are currently subject to that rule. Thus, the current proposed rulemaking would have no effect on small entities.

#### 6. Consequences of Not Conducting Collection

As noted in the last Commission submission to the OMB, without the information provided on Forms ATS and ATS-R, the Commission would not have readily available information on a regular basis in a format that will allow it to determine whether such systems have adequate safeguards. Further, in the absence of the Rule, the Commission would not regularly obtain uniform trading data to identify areas where surveillance by SROs may be more appropriately tailored to the detection of fraudulent, deceptive and manipulative practices that may be peculiar to an automated trading environment. In sum, without the data required by the proposed Rule, the Commission would be severely limited in its ability to comply with its statutory obligations, provide for the protection of investors and promote the maintenance of fair and orderly markets.

In connection with proposed Regulation SCI, the adoption of Regulation SCI and the failure to delete Rule 301(b)(6) of Regulation ATS would result in duplicative requirements for certain alternative trading systems.

#### 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 Commission has issued a release soliciting public comment on the collection of information requirements and associated paperwork burdens for proposed Regulation SCI. A copy of the release is attached. Comments on Commission releases are generally received from registrants, investors, and other market participants. In addition, the Commission and staff participate in ongoing dialogue with representatives of various market participants through public conferences, meetings and informal exchanges. Any comments received on this proposed rulemaking will be posted on the Commission's public website, and made available through <http://www.sec.gov/comments/s7-01-13/s70113.shtml>. The Commission will consider all comments received prior to publishing the final rule, and will explain in any adopting release how the final rule responds to such comments, in accordance with 5 CFR 1320.11(f).

9. Payment or Gift

Not applicable.

10. Confidentiality

The records required by Regulation ATS are available only to the examination of the Commission staff, state securities authorities and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. § 522 ("FOIA"), and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

11. Sensitive Questions

Not applicable.

12. Burden of Information Collection

A. Form ATS – Initial Operation Report

Alternative trading systems that choose to register as broker-dealers and comply with Regulation ATS are required to file a Form ATS prior to commencing operations. The Commission estimates that approximately 5 respondents will file an Initial Operation Report on Form ATS each year, and that the average reporting burden for each respondent would be 20 hours, comprising 13 hours of in-house professional work and 7 hours of clerical work. Thus, the total compliance burden per year is 100 hours (5 responses × 20 hours = 100 hours). The approximate cost per hour is \$316 for in-house professional work and \$59 for clerical work.<sup>13</sup>

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<sup>13</sup> The Commission's estimate concerning the wage rate for attorney and clerk time is based

Thus the total cost of compliance for the annual burden is \$22,605 ( $\$316 \times 13$  hours per response +  $\$59 \times 7$  hours per response = \$4,521 per response;  $\$4,521 \times 5$  responses = \$22,605).

B. Form ATS – Periodic Amendments to Update Information

Alternative trading systems that choose to register as broker-dealers and comply with Regulation ATS are required to file periodic amendments to the initial operations report on Form ATS to provide notice of material systems changes and reflect other changes. The Commission estimates that each of the approximately 80 alternative trading systems will file 2 amendments per year for 160 responses, and that the average reporting burden for each response would be 2 hours, comprising 1.5 hours of in-house professional work and 0.5 hours of clerical work. Thus, the total reporting burden per year is 320 hours (160 responses  $\times$  2 hours = 320 hours). The approximate cost per hour is \$316 for in-house professional work and \$59 for clerical work. Thus the total cost of compliance for the annual burden is \$80,560 ( $\$316 \times 1.5$  hours per response +  $\$59 \times 0.5$  hours per response = \$503.50 per response;  $\$503.50 \times 160$  responses = \$80,560).

C. Form ATS-R – Quarterly Reports

Alternative trading systems that choose to register as broker-dealers and comply with Regulation ATS are required to file quarterly reports on Form ATS-R. Each of the approximately 80 alternative trading systems will file 4 quarterly reports per year for 320 responses. The Commission estimates that the average reporting burden for each response would be 4 hours, comprising 3 hours of in-house professional work and 1 hour of clerical work. Thus, the total reporting burden per year is 1,280 hours (320 responses  $\times$  4 hours = 1,280 hours). The approximate cost per hour is \$316 for in-house professional work and \$59 for clerical work. Thus the total cost of compliance for the annual burden is \$322,240 ( $\$316 \times 3$  hours per response +  $\$59 \times 1$  hour per response = \$1007 per response;  $\$1007 \times 320$  responses = \$322,240).

D. Form ATS – Cessation of Operations Report

Alternative trading systems that choose to register as broker-dealers and comply with Regulation ATS are required to submit a notice on Form ATS when they are ceasing operations. The Commission estimates that 3 alternative trading systems will be required to file a cessation of operations report each year, and that the average reporting burden for each response would be 2 hours, comprising 1.5 hours of in-house professional work and 0.5 hours of clerical work.

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on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association (“SIFMA”). The \$316 per hour figure for an attorney is from SIFMA’s Management & Professional Earnings in the Securities Industry 2009, 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. The \$59 per hour figure for a compliance clerk is from SIFMA’s Office Salaries in the Securities Industry 2009, 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.



Thus, the total reporting burden per year is 6 hours (3 responses  $\times$  2 hours = 6 hours). The approximate cost per hour is \$316 for in-house professional work and \$59 for clerical work. Thus the total cost of compliance for the annual burden is \$1,510.50 ( $\$316 \times 1.5$  hours per response +  $\$59 \times 0.5$  hours per response = \$503.50 per response;  $\$503.50 \times 3$  responses = \$1,510.50).

#### E. Fair Access Standards Recordkeeping

Alternative trading systems that choose to register as broker-dealers, comply with Regulation ATS and meet certain volume thresholds are required to establish standards for granting access on its trading system. Such alternative trading systems are required to make and keep such criteria, so such a requirement creates a recordkeeping burden for alternative trading systems. The Commission estimates that 2 alternative trading systems that register as broker-dealers and comply with Regulation ATS would meet the volume thresholds that trigger fair access obligations, and that the average compliance burden for each response would be 5 hours of in-house professional work at \$316 per hour. Thus, the total compliance burden per year is 10 hours (2 responses  $\times$  5 hours = 10 hours). The total cost of compliance for the annual burden is \$3,160 ( $\$316 \times 5$  hours per response  $\times$  2 responses = \$3,160).

#### F. Fair Access Notices

Alternative trading systems that choose to register as broker-dealers, comply with Regulation ATS and meet certain volume thresholds are required to provide a notice to any user upon any decision to deny or limit the user's access to the system. The Commission estimates that 2 alternative trading systems that register as broker-dealers and comply with Regulation ATS would meet the volume thresholds that trigger fair access obligations approximately 27 times a year, and that the average third-party disclosure burden for each response would be 1 hour of in-house professional work at \$316 per hour. Thus, the total compliance burden per year is 54 hours (2 respondents  $\times$  27 responses each  $\times$  1 hour = 54 hours). The total cost of compliance for the annual burden is \$17,064 ( $\$316 \times 1$  hour per response  $\times$  54 responses = \$17,064).

#### G. Systems Capacity, Integrity and Security Recordkeeping

The Commission proposes to delete Rule 301(b)(6) of Regulation ATS and thus eliminate paperwork burdens in connection with the systems capacity, integrity, and security recordkeeping requirements. The Commission had estimated that 2 alternative trading systems that register as broker-dealers and comply with Regulation ATS would trigger this requirement, and that the average record-keeping burden for each response would be 10 hours of in-house professional work at \$316 per hour. Thus, the total record-keeping burden per year was estimated to be 20 hours (2 respondents  $\times$  10 hours = 20 hours). The total cost of compliance for the annual burden was estimated to be \$6,320 ( $\$316 \times 20$  hours = \$6,320). These burdens would be eliminated.

#### H. Systems Outage Notices

The Commission proposes to delete Rule 301(b)(6) of Regulation ATS and thus eliminate paperwork burdens in connection with systems outage notices. The Commission had estimated that 2 alternative trading systems that register as broker-dealers and comply with Regulation ATS would meet the volume thresholds that trigger systems outage notice obligations approximately 5 times a year, and that the average reporting burden for each response would be 0.25 hours of in-house professional work at \$316 per hour. Thus, the total reporting burden per year was estimated to be 2.5 hours (2 respondents  $\times$  5 responses per respondent  $\times$  0.25 hours per response = 2.5 hours). The total cost of compliance for the annual burden was estimated to be \$790 ( $\$316 \times 0.25$  hours per response  $\times$  10 responses = \$790). These burdens would be eliminated.

### I. Aggregate Respondent Reporting Burdens

As amended, the estimated average annual aggregate burden for alternative trading systems to comply with Rule 301 would be 1,770 hours. This estimate is broken down as follows:

Initial Operating Reports on Form ATS =	100 hours
Amendments to Form ATS =	320 hours
Quarterly reports on Form ATS-R =	1280 hours
Cessation of operations report on Form ATS =	6 hours
Fair access standards =	10 hours
Fair access notices =	<u>54 hours</u>
	1,770 hours

As amended, the estimated number of annual responses for alternative trading systems under Rule 301 would be 542. This estimate is broken down as follows:

Initial operation report filing on Form ATS =	5 filings
Amendments to Form ATS =	160 filings
Quarterly reports on Form ATS-R =	320 filings
Cessation of operations report on Form ATS =	3 filings
Fair access notices =	<u>54 notices</u>
	542 annual responses

### 13. Costs to Respondents

#### A. Form ATS – Initial Operation Report

The Commission estimates that the aggregate respondent reporting cost burden for a new alternative trading systems to file an initial operation report on Form ATS would include overhead costs for printing, copying, and postage equal to 35% of the value of labor costs (as calculated in Section 12 above).<sup>14</sup> This amounts to \$1,582.35 per respondent ( $\$4,521 \times 35\%$ ). Thus, the

<sup>14</sup> These estimates have been computed based on the GSA Guide to Estimating Reporting Costs (1973).

Commission estimates the total annualized cost burden would be \$7,911.75 ( $\$1,582.35 \times 5$  respondents).

B. Form ATS – Periodic Amendments to Update Information

The Commission estimates that the aggregate respondent reporting cost burden for an alternative trading system to file periodic amendments to its initial operation report on Form ATS would include overhead costs for printing, copying, and postage equal to 35% of the value of labor costs (as calculated in Section 12 above). This amounts to \$176.23 per response ( $\$503.50 \times 35\%$ ). Thus, the Commission estimates the annualized cost burden for each respondent would be \$352.46 ( $\$176.23 \times 2$  responses per respondent) and the total annualized cost burden for all respondents would be \$28,196.80 ( $\$176.23 \times 80$  respondents  $\times 2$  responses per respondent).

C. Form ATS-R – Quarterly Reports

The Commission estimates that the aggregate respondent reporting cost burden for an alternative trading system to file quarterly reports on Form ATS-R would include overhead costs for printing, copying, and postage equal to 35% of the value of labor costs (as calculated in Section 12 above). This amounts to \$352.45 per response ( $\$1007 \times 35\%$ ). Thus, the Commission estimates the annualized cost burden for each respondent would be \$1409.80 ( $\$352.45 \times 4$  responses per respondent) and the total annualized cost burden for all respondents would be \$112,784 ( $\$352.45 \times 80$  respondents  $\times 4$  responses per respondent).

D. Form ATS – Cessation of Operations Report

The Commission estimates that the aggregate respondent reporting cost burden for an alternative trading system to file a cessation of operations report on Form ATS would include overhead costs for printing, copying, and postage equal to 35% of the value of labor costs (as calculated in Section 12 above). This amounts to \$176.23 per respondent ( $\$503.5 \times 35\%$ ). Thus, the Commission estimates the total annualized cost burden would be \$528.69 ( $\$176.23 \times 3$  respondents).

E. Fair Access Standards Recordkeeping

The Commission estimates that the aggregate respondent recordkeeping cost burden for an alternative trading system to establish and keep records relating to fair access standards would include overhead costs for printing, copying, and postage equal to 35% of the value of labor costs (as calculated in Section 12 above). This amounts to \$553 per response ( $\$1,580 \times 35\%$ ). Thus, the Commission estimates the total annualized cost burden would be \$1,106 ( $\$553 \times 2$  respondents).

F. Fair Access Notices

The Commission estimates that the aggregate respondent third party disclosure burden for an alternative trading system to provide a notice to any user upon any decision to deny or limit the user's access to the system would include overhead costs for printing, copying, and postage equal to

35% of the value of labor costs (as calculated in Section 12 above). This amounts to \$110.60 per response ( $\$316 \times 35\%$ ). Thus, the Commission estimates the annualized cost burden for each respondent would be \$2,986.20 ( $\$110.60 \times 27$  responses per respondent) and the total annualized cost burden for all respondents would be \$5,972.40 ( $\$110.60 \times 2$  respondents  $\times 27$  responses per respondent).

#### G. Systems Capacity, Integrity and Security Recordkeeping

The Commission proposes to delete Rule 301(b)(6) of Regulation ATS and thus eliminate cost burdens in connection with the systems capacity, integrity, and security recordkeeping requirements. The Commission had estimated that the aggregate respondent recordkeeping cost burden for an alternative trading system to comply with systems capacity, integrity and security recordkeeping requirements would include overhead costs for printing, copying, and postage equal to 35% of the value of labor costs (as calculated in Section 12 above). This was estimated to be \$1,106 per respondent ( $\$3,160 \times 35\%$ ). Thus, the Commission had estimated that the total annualized cost burden would be \$2,212 ( $\$1,106 \times 2$  respondents). This cost would be eliminated.

#### H. Systems Outage Notices

The Commission proposes to delete Rule 301(b)(6) of Regulation ATS and thus eliminate cost burdens in connection with systems outage notices. The Commission had estimated that the aggregate respondent reporting cost burden for an alternative trading system to comply with systems outage notice obligations would include overhead costs for printing, copying, and postage equal to 35% of the value of labor costs (as calculated in Section 12 above). This was estimated to be \$27.65 per response ( $\$79 \times 35\%$ ). Thus, the Commission estimated that the annualized cost burden for each respondent would be \$138.25 ( $\$27.65 \times 5$  responses per respondent) and the total annualized cost burden for all respondents would be \$276.50 ( $\$27.65 \times 2$  respondents  $\times 5$  responses per respondent). This cost would be eliminated.

#### I. Aggregate Burdens

As amended, the estimated average annual aggregate cost burden for alternative trading systems to comply with Rule 301 would be \$156,499.64. This estimate is broken down as follows:

Initial operation report filing on Form ATS =	\$ 7,911.75
Amendments to Form ATS =	\$ 28,196.80
Quarterly reports on Form ATS-R =	\$ 112,784.00
Cessation of operations report on Form ATS =	\$ 528.69
Fair access standards =	\$ 1,106.00
Fair access notices =	<u>\$ 5,972.40</u>
	\$ 156,499.64

#### 14. Cost to Federal Government

Because the Commission is only proposing to delete Rule 301(b)(6) of Regulation ATS, the Commission does not believe the proposal will impose additional cost on the Commission.

15. Changes in Burden

As noted in Sections 12 and 13 above, deletion of Rule 301(b)(6) of Regulation ATS would reduce 22.5 hours of burden and \$2,488.50 in cost for respondents.

16. Information Collection Planned for Statistical Purposes

Not applicable. The information collections above are not planned for statistical purposes.

17. OMB Expiration Date Display Approval

The Commission is not seeking approval to omit the OMB approval 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.