

PAPERWORK REDUCTION ACT SUPPORTING STATEMENT

ORDER GRANTING A CONDITIONAL EXEMPTION UNDER THE SECURITIES EXCHANGE ACT OF 1934 FROM THE CONFIRMATION REQUIREMENTS OF EXCHANGE ACT RULE 10b-10(a) FOR CERTAIN TRANSACTIONS IN MONEY MARKET FUNDS

A. JUSTIFICATION

1. Necessity of Information Collection

Rule 10b-10(a) under the Securities Exchange Act of 1934 (“Exchange Act”) generally requires broker-dealers to provide customers with specified information relating to their securities transactions at or before the completion of the transactions.¹ Rule 10b-10(b), however, provides an exception from this requirement for certain transactions in money market funds that attempt to maintain a stable net asset value (“NAV”) when no sales load or redemption fee is charged.² The exception permits broker-dealers to provide transaction information to money market fund shareholders on a monthly, rather than immediate, basis, subject to the conditions set forth in paragraphs (2) and (3) of Rule 10b-10(b).³ Accordingly, customers historically have received information about their transactions in shares of money market funds, including institutional prime money market funds, on a monthly basis.

On July 23, 2014, the Securities and Exchange Commission (“Commission”) adopted amendments to Rule 2a-7 of the Investment Company Act of 1940 (“Investment Company Act”)⁴ that, among other things, require institutional prime money market funds⁵ to sell and redeem fund shares based on the current market-based value of the securities held in their portfolios (*i.e.*, transact at a “floating” NAV). Given that share prices of institutional prime money market funds likely will fluctuate under the Commission’s amendments to Investment

¹ 17 CFR 240.10b-10(a).

² 17 CFR 240.10b-10(b).

³ With respect to such money market funds, Exchange Act Rule 10b-10(b)(2) requires a broker-dealer to give or send to a customer within five business days after the end of each monthly period:

a written statement disclosing, each purchase or redemption, effected for or with, and each dividend or distribution credited to or reinvested for, the account of such customer during the month; the date of such transaction; the identity, number, and price of any securities purchased or redeemed by such customer in each such transaction; the total number of shares of such securities in such customer’s account; any remuneration received or to be received by the broker or dealer in connection therewith; and that any other information required by [Rule 10b-10(a)] will be furnished upon written request: *Provided, however*, that the written statement may be delivered to some other person designated by the customer for distribution to the customer.

17 CFR 240.10b-10(b)(2). Exchange Act Rule 10b-10(b)(3) requires the customer to be provided with prior notification in writing disclosing the intention to send the written information referred to in Rule 10b-10(b)(1) in lieu of an immediate confirmation. 17 CFR 240.10b-10(b)(3).

⁴ 17 CFR 270.2a-7.

⁵ “Institutional prime money market funds” are money market funds operating in accordance with Investment Company Act Rule 2a-7(c)(1)(ii), which include funds that are often referred to as (i) “tax exempt” or (ii) “municipal” funds that do not qualify as a “retail money market fund” as defined in Rule 2a-7(a)(25).

Company Act Rule 2a-7,⁶ absent an exemption, broker-dealers would not be able to continue to rely on the exception under Exchange Act Rule 10b-10(b) for transactions in money market funds operating in accordance with Rule 2a-7(c)(1)(ii).⁷ Instead, broker-dealers would be required to provide immediate confirmations for such transactions in accordance with Rule 10b-10(a).

Consequently, the Commission has issued an Order Granting a Conditional Exemption under the Securities Exchange Act of 1934 From The Confirmation Requirements of Exchange Act Rule 10b-10(a) For Certain Transactions In Money Market Funds (“Order”).⁸ In the Order, the Commission found that it is necessary and appropriate in the public interest, and consistent with the protection of investors to allow broker-dealers, subject to certain conditions, to provide transaction information to investors in any money market fund operating pursuant to Rule 2a-7(c)(1)(ii) on a monthly basis in lieu of providing immediate confirmations as required under Exchange Act Rule 10b-10(a).⁹

However, given that there likely will be some price fluctuations in institutional prime money market funds, the Commission determined in the Order that it is also necessary and appropriate in the public interest and consistent with the protection of investors to condition the exemption on a broker-dealer providing immediate confirmations upon a customer’s request. Accordingly, to be eligible for the exemption, a broker-dealer must (1) provide an initial written notification to the customer of its ability to request delivery of immediate confirmations consistent with the written notification requirements of Exchange Act Rule 10b-10(a), and (2) not receive any such request from the customer. In addition, consistent with conditions applicable to confirmation delivery requirements provided in Exchange Act Rule 10b-10(b) for all transactions in investment company securities that attempt to maintain a stable NAV where no sales load or redemption fee is charged, the Commission is imposing the conditions that no sales load is deducted upon the purchase or redemption of shares in the institutional prime

⁶ 17 CFR 270.2a-7.

⁷ See generally Money Market Fund Reform; Amendments to Form PF, Securities Act Release No. 9408, Investment Advisers Act Release No. 3616, Investment Company Act Release No. 30551 (June 5, 2013), 78 FR 36834, 36934 (June 19, 2013); see also Exchange Act Rule 10b-10(b)(1), 17 CFR 240.10b-10(b)(1) (limiting alternative monthly reporting to money market funds that attempt to maintain a stable NAV).

As adopted, government and retail money market funds are exempt from the Investment Company Act Rule 2a-7(c)(1)(ii) floating NAV requirement, and therefore, will continue to maintain a stable NAV. See Money Market Fund Reform; Amendments to Form PF, Securities Act Release No. 9616, Investment Advisers Act Release No. 3879, Investment Company Act Release No. 31166 (July 23, 2014), 79 FR 47736, at sections III.C.1 and III.C.2 (Aug. 14, 2014) (“Money Market Fund Reform Adopting Release”). Accordingly, for investor transactions in the exempt funds, broker-dealers would continue to qualify for the exception under Rule 10b-10 and be permitted to send monthly transaction reports.

⁸ See Order Granting a Conditional Exemption Under the Securities Exchange Act of 1934 From the Confirmation Requirements of Exchange Act Rule 10b-10(a) for Certain Transactions in Money Market Funds, Exchange Act Release No. 34-76480 (Nov. 19, 2015), 80 Fed. Reg. 73849 (Nov. 25, 2015).

⁹ The Commission previously published a notice requesting comment on the proposal to grant a conditional exemption to broker-dealers, subject to certain conditions, from the immediate confirmation requirements of Exchange Act Rule 10b-10 for transactions effected in shares of institutional prime money market funds. See Notice of Proposed Exemptive Order Granting Permanent Exemptions Under the Securities Exchange Act of 1934 from the Confirmation Requirements of Exchange Act Rule 10b-10 for Certain Money Market Funds, Exchange Act Release No. 72658 (July 23, 2014), 79 FR 44076 (July 29, 2014).

money market fund, and that the broker-dealer complies with the provisions of paragraphs (2) and (3) of Rule 10b-10(b) that are applicable to money market funds that attempt to maintain a stable NAV referenced in Rule 10b-10(b)(1).

2. Purpose and Use of the Information Collection

The notification condition in the Order will alert customers of their ability to request immediate confirmations, consistent with the terms of Exchange Act Rule 10b-10(a). The notification condition allows customers to obtain immediate confirmations should they choose to request them.

3. Consideration Given to Information Technology

The Order does not mandate a specified form of the notification; a broker-dealer may employ information technology in providing a notification to a customer.

4. Duplication

Not applicable; there is no duplication of information.

5. Effect on Small Entities

Paragraph (c) of Rule 0-10 provides that a small entity when used with reference to a broker-dealer (“small broker-dealer”) means a broker-dealer that: (1) had 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 Exchange Act Rule 17a-5(d)¹⁰ or, if not required to file such statements, a broker-dealer that had total capital (net worth plus subordinated liabilities) 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 if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization.¹¹ Based on FOCUS Report data, the Commission has previously estimated that only eight small broker-dealers would be carrying broker-dealers.¹² The requirements of Exchange Act Rule 10b-10 and the Order are not unduly burdensome on small broker-dealers, and the collection of information contained in the Order will not have a significant economic impact on a substantial number of small entities.

6. Consequences of Not Conducting Collection

The collection of information results from a condition of the Order and will be required for a broker-dealer to be exempt from the immediate confirmation requirements of Exchange Act Rule 10b-10(a). Absent the notification condition in the Order, customers would not be alerted of their ability to request immediate confirmations, consistent with the terms of Exchange Act Rule 10b-10(a). The notification condition allows customers to obtain immediate

¹⁰ 17 CFR 240.17a-5(d).

¹¹ 17 CFR 240.0-10(c).

¹² See Broker-Dealer Reports, Exchange Act Release No. 70073 (July 30, 2013), 78 FR 51910, 51987 (Aug. 21, 2013).

confirmations should they choose to request them.

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

In the Order, the Commission has solicited comment on the new “collection of information” requirement and associated paperwork burdens. A copy of the Order is attached.

9. **Payment or Gift**

Not applicable.

10. **Confidentiality**

The notification would be provided by a broker-dealer directly to a customer and thus would not be kept confidential.

11. **Sensitive Questions**

Not applicable.

12. **Burden of Information Collection**

a. **Respondents:**

As stated in the Money Market Fund Reform Adopting Release, based on FOCUS report data as of December 31, 2013, the Commission estimates that there are approximately 320 broker-dealers that clear customer transactions or carry customer funds and securities.¹³ In the Money Market Fund Reform Adopting Release, the Commission also conservatively estimated that those broker-dealers are the respondents that would provide trade confirmations to customers in institutional prime money market funds.¹⁴

b. **Description of Burdens:**

The Commission estimates that the initial one-time burden required to implement, modify, or reprogram existing systems to generate and transmit the required notifications to customers would be 36 hours for each of the 320 broker-dealers that clear customer transactions or carry customer funds and securities.¹⁵ Thus, the Commission estimates that the initial burden

¹³ Money Market Fund Reform Adopting Release, 79 FR at 47785 & n.563.

¹⁴ *Id.*

¹⁵ In the Money Market Fund Reform Adopting Release, the Commission estimated that the initial one-time burden to implement, modify, or reprogram existing systems to generate immediate confirmations (rather than monthly statements) would be 355 burden hours for each of the 320 broker-dealers that clear customer transactions or carry customer funds and securities. *Id.* at 47785 & n.562. Given the non-repeat nature of the notification

for issuance of the notifications in accordance with this Order, including burdens to implement, modify, or reprogram existing systems to generate such notifications will be approximately 11,520 burden hours.¹⁶ The Commission anticipates that after broker-dealers incur the initial costs to establish systems to generate and transmit the notifications to existing customers, broker-dealers will be able to minimize any additional costs, such as by providing the notifications as part of a new account application.¹⁷ As a result, the Commission anticipates that any additional annual burdens arising from the notification condition will be minimal,¹⁸ and conservatively estimates that broker-dealers will, on average, incur annual costs of 5% of those initial costs, or 576 burden hours.¹⁹

In summary, the Commission estimates that, over a three-year period, the total third-party disclosure burden associated with the notification condition in the Order would be approximately 12,672 hours,²⁰ or 4,224 per year²¹ when annualized over three years. The average estimated burden per respondent would be 39.6 hours, or 13.2 hours per year²² when annualized over three years.

Summary of Hourly Burdens

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Nature of Information Collection Burden	Type of Burden	Number of Respondents	Number of Responses Per Year	Initial Burden Per Response Per Year Per Respondent	Ongoing Burden Per Response Per Year Per Respondent	Annualized Burden Estimate Per Respondent	Annualized Hourly Burden Estimate Industry-Wide	Small Business Entities Affected
Burden Associated with Notification	Third-Party Disclosure	320	320	36	1.8	39.6	12,672	8
						39.6	12,672	

requirement and substantial savings in resources noted by commenters, the Commission estimates that the burdens to develop system changes to provide the notices to all applicable customers would be no more than 10% of the prior 355 burden hours estimate associated with requiring immediate confirmations.

¹⁶ This estimate is based on the following: 36 hours x 320 firms = 11,520 hours.

¹⁷ See, e.g., Letters to Kevin M. O’Neill, Deputy Secretary, Commission, from Dorothy Donohue, Acting General Counsel, Investment Company Institute (Aug. 15, 2014), at 2, <http://www.sec.gov/comments/s7-08-14/s70814-1.pdf>.

¹⁸ Other than the notification condition set forth in this Order, the Commission has previously estimated the additional burdens associated with providing immediate confirmations and/or monthly statements under Rule 10b-10. See Submission for OMB Review; Comment Request, 78 FR 39023 (June 28, 2013).

¹⁹ This estimate is based on the following: 11,520 hours x 5% = 576 hours.

²⁰ This estimate is based on the following: [(36 hours of initial costs (i.e., costs in year one)) x (320 firms) + (576 hours) x (2 years)] = 12,672 hours total.

²¹ 12,672 hours ÷ 3 = 4,224 hours per year.

²² 12,672 hours (total burden to provide notifications under the Order) ÷ 320 firms (estimated number of total respondents) = 39.6 hours ÷ 3 = 13.2 hours per respondent.

13. **Costs to Respondents**

Not applicable. The Commission estimates that respondents will not seek outside assistance in completing the collection of information, and therefore, respondents will not experience any external costs in connection with the collection of information.

14. **Costs to the Federal Government**

Not applicable.

15. **Reason for Changes in Burden**

Not applicable.

16. **Information Collections Planned for Statistical Purposes**

Not applicable.

17. **Display of OMB Approval Date**

The Commission is not seeking approval to not display 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.