

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
Form Custody

A. JUSTIFICATION

1. Necessity of Information Collection

Section 17(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (“Exchange Act”) provides that broker-dealers registered with the Securities and Exchange Commission (“Commission”) must make and keep records, furnish copies of the records, and make and disseminate reports as the Commission, by rule, prescribes. Pursuant to this authority, the Commission adopted Rule 17a-5 (17 CFR 240.17a-5), which is one of the primary financial and operational reporting rules for broker-dealers.¹ Paragraph (a)(5) of Rule 17a-5 requires every broker-dealer registered with the Commission to file Form Custody (17 CFR 249.639) with its designated examining authority (“DEA”) within 17 business days after the end of each calendar quarter and within 17 business days after the date selected for the broker-dealer’s annual report if that date is not the end of a calendar quarter. Form Custody is designed to elicit information about whether a broker-dealer maintains custody of customer and non-customer assets, and, if so, how such assets are maintained.

2. Purpose and Use of the Information Collection

The purpose of Form Custody is to provide information about the custodial activities of broker-dealers that can serve as a starting point for securities regulators to undertake more in-depth reviews of these activities as they deem appropriate.

3. Consideration Given to Information Technology

Form Custody would generally be filed electronically with the broker-dealer’s DEA.

4. Duplication

The Commission is aware that some overlap exists between the information collected from investment advisers on Form ADV and the information that would be collected from broker-dealers dually-registered as investment advisers in Item 8 of Form Custody. However, these two forms also contain a significant amount of non-overlapping material, reflecting their different purposes and uses. Form Custody is intended to be a single source of readily-available information to assist Commission and DEA examiners in preparing for and performing focused custody exams, and it is particularly important that such information be readily available in the case of dually-registered firms.

5. Effect on Small Entities

¹ Rule 17a-5 is subject to a separate Paperwork Reduction Act (“PRA”) filing (Office of Management and Budget (“OMB”) Control Number 3235-0123).

The Commission believes that the burden associated with Form Custody would generally be less for smaller broker-dealers because a broker-dealer that does not clear transactions or carry customer accounts would generally not need to enter detailed information on the form.

6. Consequences of Not Conducting Collection

If the required reports were not made, it would impair the Commission's and the DEAs' ability to detect fraudulent conduct by investment advisers and broker-dealers, including, among other things, misappropriation or other misuse of customer securities and funds. Further, if the required collections were conducted less frequently, the information in the reports would become outdated.

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 payment or gift was provided to respondents.

10. Confidentiality

Pursuant to paragraph (a)(3) of Rule 17a-5, Form Custody would be deemed to be confidential.

11. Sensitive Questions

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

12. Burden of Information Collection

As noted above, all broker-dealers registered with the Commission are required to file Form Custody with their DEAs once each calendar quarter. The Commission estimates that there are approximately 4,113 broker-dealers registered with the Commission. Based on staff experience, the Commission estimates that, on average, it would take a broker-dealer approximately 12 hours to complete and file Form Custody, for an annual industry-wide

reporting burden of approximately 197,424 hours.² Assuming an average cost per hour of approximately \$291 for a compliance manager, the total internal cost of compliance for the respondents is approximately \$57,450,384 per year.³

13. Costs to Respondents

Other than the costs associated with the burden of information collection discussed in Item 12 above, Form Custody does not impose any additional costs other on respondents.

14. Costs to Federal Government

There are no costs to the Federal Government associated with Form Custody.

15. Changes in Burden

The annual reporting burden has decreased from 226,032 hours to 197,424 hours due to a decrease in the number of respondents from 4,709 to 4,113.

16. Information Collection Planned for Statistical Purposes

The information collected is not used for statistical purposes.

17. Approval to Omit OMB Expiration

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

18. Exceptions to Certification for PRA Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.

² 4,113 brokers-dealers x 4 times per year x 12 hours = 197,424 hours.

³ 197,424 hours times \$291 per hour = 57,450,384. \$291 per hour for a compliance manager is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff for an 1800-hour work-year, multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, and adjusted for inflation.