

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 17g-2--Records to be Made and Retained by Nationally Recognized Statistical Rating
Organizations

A. JUSTIFICATION

1. Necessity of Information Collection

The Credit Rating Agency Reform Act of 2006¹ (“Rating Agency Act”), enacted on September 29, 2006, defines the term “nationally recognized statistical rating organization,” or “NRSRO,” and provides authority for the Securities and Exchange Commission (“Commission”) to implement registration, recordkeeping, financial reporting, and oversight rules with respect to registered credit rating agencies.

Title IX, Subtitle C of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”),² “Improvements to the Regulation of Credit Rating Agencies,” among other things, establishes new self-executing requirements applicable to NRSROs, requires certain studies,³ and requires that the Commission adopt rules applicable to NRSROs in a number of areas.⁴ The NRSRO provisions in the Dodd-Frank Act augment the Rating Agency Act, which established a registration and oversight program for NRSROs through self-executing provisions added to the Securities Exchange Act of 1934 (“Exchange Act”) and implementing rules adopted by the Commission under the Exchange Act as amended by the Rating Agency Act.⁵ Title IX, Subtitle C of the Dodd-Frank Act also provides that the Commission shall prescribe the format of a certification that providers of third-party due diligence services would need to provide to each NRSRO producing a credit rating for an asset-backed security to which the due diligence services relate.⁶ Finally, Title IX, Subtitle C of the Dodd-Frank Act establishes a new requirement for issuers and underwriters of asset-backed securities to make publicly available the findings and conclusions of any third-party due diligence report obtained by the issuer or underwriter.⁷

¹ Pub. L. No. 109-291 (2006).

² Pub. L. No. 111-203, 124 Stat. 1376, H.R. 4173 (July 21, 2010).

³ See Pub. L. No. 111-203 §§ 939, 939D-939F.

⁴ See Pub. L. No. 111-203 §§ 931-939H; see also Pub. L. No. 111-203 § 943.

⁵ See Pub. L. No. 109-291.

⁶ See Pub. L. No. 111-203 § 932(a)(8) adding new paragraph (s)(4)(C) to section 15E of the Exchange Act. 15 U.S.C. 78o-7(s)(4)(C).

⁷ See Pub. L. No. 111-203 § 932(a)(8) adding new paragraph (s)(4)(A) to section 15E of the Exchange Act. 15 U.S.C. 78o-7(s)(4)(A).

Rule 17g-2 contains recordkeeping and disclosure requirements.⁸ The collection of information obligations imposed by the rule are mandatory. The requirements of Rule 17g-2, however, apply only to credit rating agencies that are applying to register or are registered with the Commission as NRSROs, and registration is voluntary. On August 27, 2014, the Commission adopted amendments to Rule 17g-2, discussed in greater detail below.

The Rating Agency Act amended section 17(a)(1) of the Exchange Act to add NRSROs to the list of entities required to make and keep such records, and make and disseminate such reports, as the Commission prescribes by rule as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Exchange Act.⁹ The inclusion of NRSROs on the list also provides the Commission with authority under section 17(b)(1) of the Exchange Act to examine all the records of an NRSRO.¹⁰

Rule 17g-2, “Records to be made and retained by nationally recognized statistical rating organizations,” implements the Commission’s recordkeeping rulemaking authority under section 17(a) of the Exchange Act.¹¹ The rule requires an NRSRO to make and retain certain records relating to its business and to retain certain other business records, if such records are made. The rule also prescribes the time periods and manner in which all these records must be retained.

The requirements of Rule 17g-2 are designed to ensure that an NRSRO makes and retains records that assist the Commission in monitoring, through its examination authority, whether an NRSRO continues to meet the requirements for registration as an NRSRO and whether the NRSRO is complying with applicable laws and regulations.

2. Purpose and Use of the Information Collection

The collections of information in Rule 17g-2 are designed to allow the Commission to determine whether an NRSRO continues to meet the requirements for registration and is complying with applicable laws and regulations. In particular, the collections of information in Rule 17g-2 will assist the Commission in effectively monitoring, through its examination function, whether an NRSRO is conducting its activities in accordance with section 15E of the Exchange Act,¹² and applicable Exchange Act rules under the Rating Agency Act.

⁸ The Office of Management and Budget (“OMB”) Control Number for Rule 17g-2 is 3235-0628.

⁹ See section 5 of the Exchange Act and 15 U.S.C. 78q(a)(1).

¹⁰ See 15 U.S.C. 78q(b)(1).

¹¹ 15 U.S.C. 78q.

¹² 15 U.S.C. 78o-7.

3. Consideration Given to Information Technology

The records that the amendments to Rule 17g-2 require NRSROs to make and retain could be made and retained electronically. The Commission believes that improvements in telecommunications and data processing technology may reduce any burdens associated with the amendments to Rule 17g-2. NRSROs are not prevented by Rule 17g-2 from using computers or other mechanical devices to generate the records required under the rule.

4. Duplication

The Commission has not identified any duplication with respect to the information required by Rule 17g-2.

5. Effect on Small Entities

Small entities may be affected by the rule because all credit rating agencies, regardless of size, that are registered as NRSROs will be required to make and retain records in accordance with Rule 17g-2. Currently, there are 10 NRSROs and, based on their most recently filed annual reports pursuant to 17g-3, two NRSROs are small entities, as defined under Section 601(3) of the Regulatory Flexibility Act.¹³

6. Consequences of Not Conducting Collection

Up-to-date records are essential for the Commission to monitor whether an NRSRO continues to meet the requirements for registration as an NRSRO. If an NRSRO did not make these records, or if it made these records less frequently, the goals of the Rating Agency Act--including enhancing the information used by investors to make investment decisions--will be diminished.

7. Inconsistencies with Guidelines in 5 CFR 1320.8(d)

There are no special circumstances. This collection is consistent with 5 CFR 1320.8(d).

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.

¹³ Release No. 34-72936 (Aug. 27, 2014), 79 FR 55078 (Sept. 15, 2014).

9. Payment or Gift

The Commission did not provide any payment or gift to respondents in connection with the rulemaking.

10. Confidentiality

The records that an NRSRO must make and retain under the amendments to Rule 17g-2 will be made available to the Commission and its representatives as required in connection with examinations, investigations, and enforcement proceedings. The confidentiality of the information submitted to the Commission under the rule will be protected only to the extent permitted by FOIA.

11. Sensitive Questions

Not applicable. No inquiries of a sensitive nature were made.

12. Burden of Information Collection

There are 10 credit rating agencies registered with the Commission as NRSROs. The Commission expects that these entities have already established the record keeping policies and procedures required by Rule 17g-2. Based on staff experience, NRSROs are estimated to spend an average of 239 annual hours to make and retain the appropriate records, resulting in an average industry-wide burden of 2,390 annual hours.

13. Costs to Respondents

The Commission does not anticipate any additional costs to respondents that result from the rule.

14. Costs to Federal Government

The Commission does not anticipate any additional costs to the Federal Government that result from the rule.

15. Changes in Burden

The estimated burden on responses is calculated based on the 10 credit rating agencies currently registered as NRSROs under Section 15E of the Exchange Act.

The Commission expects that these 10 entities have already established the recordkeeping policies and procedures required by Rule 17g-2, and thus the 67 annualized one-time burden hours on an industry-wide basis estimated in the prior Paperwork Reduction Act information collection submission is no longer associated with the rule.

The Commission staff estimates that an NRSRO will spend an average of 239 annual hours to make and retain the appropriate records, resulting in an average industry-wide burden of 2,390 annual hours. There is no change to this estimate from the prior submission.

16. Information Collection Planned for Statistical Purposes

Not applicable. The information collected is not used for statistical purposes.

17. Approval to Display OMB Expiration Date

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

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection of information does not involve statistical methods or analyze the information for the agency.