

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
Rule 17a-11

A. JUSTIFICATION

1. Information Collection Necessity

In response to an operational crisis in the securities industry between 1967 and 1970, the Securities and Exchange Commission (“Commission”) adopted Rule 17a-11 (17 CFR 240.17a-11) under the Securities Exchange Act of 1934 (“Exchange Act”) on July 11, 1971. The Rule requires broker-dealers that are experiencing financial or operational difficulties to provide notice to the Commission, the broker-dealer’s designated examining authority (“DEA”), and the Commodity Futures Trading Commission (“CFTC”) if the broker-dealer is registered with the CFTC as a futures commission merchant. Rule 17a-11 is an integral part of the Commission’s financial responsibility program, which enables the Commission, a broker-dealer’s DEA, and the CFTC to increase surveillance of a broker-dealer experiencing difficulties and to obtain any additional information necessary to gauge the broker-dealer’s financial or operational condition.

A broker-dealer must notify the Commission, its DEA, and, if the broker-dealer is registered as a futures commission merchant, the CFTC under Rule 17a-11 if certain circumstances arise. For example, under Rule 17a-11, a broker-dealer must give notice of certain occurrences related to its net capital, such as its net capital declining below certain levels. Similarly, Rule 17a-11 also requires over-the-counter (“OTC”) derivatives dealers and broker-dealers that are permitted to compute net capital pursuant to Appendix E to Exchange Act Rule 15c3-1 (17 CFR 240.15c3-1e) to give notice when their tentative net capital drops below certain levels. A broker-dealer must also provide notice if it has failed to make and keep certain books and records and when it discovers or is notified by an independent public accountant of the existence of a material inadequacy. To ensure the provision of these types of notices to the Commission, paragraph (f) of Rule 17a-11 requires every national securities exchange or national securities association to notify the Commission when it learns that a member broker-dealer has failed to send a notice or transmit a report required under the Rule.

The Commission is statutorily authorized to promulgate Rule 17a-11 under Sections 15(c)(3) and 17(a) of the Exchange Act (15 U.S.C. 78o(c)(3) et seq. and 15 U.S.C. 78q(a) et seq.). These sections authorize the Commission to provide safeguards with respect to financial responsibility and to request that such records be made and kept as are necessary or appropriate in the public interest. Further statutory authority is found in Section 23(a) of the Act (15 U.S.C. 78w(a) et seq.).

2. Information Collection Purpose and Use

The information obtained under Rule 17a-11 is used to monitor the financial and operational condition of a broker-dealer by the Commission staff, by the broker-dealer's DEA, and, if applicable, by the CFTC. This information alerts the Commission, the DEA, and the CFTC of the need to increase surveillance of the broker-dealer's financial and operational condition and to assist the broker-dealer to comply with the Commission's rules. No similar information is already available to use or modify for purposes of complying with Rule 17a-11 because the disclosures required by the rule are unobtainable until the early warning mechanisms are triggered. Only the most up-to-date information will help the Commission, DEAs, and the CFTC to monitor broker-dealers experiencing financial or operational difficulties.

The monthly report related to the broker-dealer's securities borrowed and loaned or securities repurchase/reverse repurchase activity may be filed by a broker-dealer in lieu of the filing of the required notice under Rule 17a-11(c)(5). The monthly report is designed to enhance the monitoring of these securities activities by securities regulators.

3. Consideration Given to Information Technology

Broker-dealers required to provide notice under Rule 17a-11 may give or transmit such notice by telegraphic notice or facsimile transmission. Reports required by Rule 17a-11 may be transmitted by overnight delivery. Certain DEAs have developed systems that enable them to receive these notices electronically.

4. Duplication

Duplication of information is not a concern because the reporting requirements are only applicable to those broker-dealers triggering the early warning mechanisms of Rule 17a-11.

5. Effect on Small Entities

To the extent that some broker-dealers that are required to give notice under the Rule are small entities, the Rule will impact these entities. However, information is collected from small registered broker-dealers only when they are required to provide notice under the Rule.

6. Consequences of Not Conducting Collection

Only broker-dealers having financial or operational problems must give notice under the Rule. Less frequent notification would result in the Commission, SROs, and the CFTC not receiving notification of broker-dealers' financial or operational problems. To the extent that some broker-dealers that are required to give notice under this rule are small entities, Rule 17a-11 will impact these entities. However, information is collected

from small registered broker-dealers only when they are required to provide notice under Rule 17a-11.

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 gifts or payments are provided to respondents.

10. Confidentiality

The Commission will generally not publish or make available to any person notices or reports received pursuant to Rule 17a-11. The Commission believes that information obtained under Rule 17a-11 relates to a condition report prepared for the use of the Commission, other federal governmental authorities, and securities industry SROs responsible for the regulation or supervision of financial institutions.

11. Sensitive Questions

No questions of a sensitive nature are asked by Rule 17a-11. The information collection does not collect any Personally Identifiable Information.

12. Information Collection Burden

As of May 1, 2017, there were 3,969 registered broker-dealers, which includes OTC derivatives dealers and broker-dealers that compute net capital pursuant to Appendix E. Given trends over the past five years, the Commission expects that number to decline annually by about 150 broker-dealers over the next three years. However, only broker-dealers whose capital declines below certain specified levels or who are otherwise experiencing financial or operational problems have a reporting burden under Rule 17a-11.

In 2016, the Commission received 253 notices from broker-dealers, which includes OTC derivatives dealers and broker-dealers that compute net capital pursuant to Appendix E. The Commission estimates receiving a similar number of notices from broker-dealers each year over the next three years and that it will take approximately one

hour to prepare and transmit each notice. Accordingly, the total estimated annualized burden under Rule 17a-11 is 253 hours.

There are 22 national securities exchanges and national securities associations. The Commission receives between five and ten Rule 17a-11 notices from national securities exchanges/associations each year. Therefore, the Commission estimates that it will receive ten notices from them each year notifying it that a member broker-dealer has failed to send the Commission a notice or transmit a report required under the Rule. The Commission estimates it will take approximately one hour preparing and transmitting each notice. Accordingly, the total estimated annualized burden under Rule 17a-11 is ten hours.

Paragraph (c)(5) of Rule 17a-11 requires broker-dealers engaged in securities lending or repurchase activities to either: (1) file a notice with the Commission and their DEA whenever the total money payable against all securities loaned, subject to a reverse repurchase agreement or the contract value of all securities borrowed or subject to a repurchase agreement, exceeds 2,500% of tentative net capital; or, alternatively, (2) report monthly their securities lending and repurchase activities to their DEA in a form acceptable to their DEA.

The Commission estimates that, annually, six broker-dealers will submit the monthly stock loan/borrow report. The Commission estimates each firm will spend, on average, approximately one hour per month (or twelve hours per year) of employee resources to prepare and send the report or to prepare the information for the FOCUS report (as required by the firm's DEA, if applicable). Therefore, the Commission estimates the total annual reporting burden arising from this section of the amendment will be approximately 72 hours.¹

The total annual reporting burden associated with Rule 17a-11 is approximately 335 hours.²

13. Cost to Respondents

The Rule does not impose any costs other than labor costs associated with the burden described in Item 12 above.

14. Costs to Federal Government

The annual operational costs incurred by the federal government in enforcing compliance and reviewing the notices required by Rule 17a-11 amount to approximately \$4,620. The staff estimates that reviewing these notices requires, on average, approximately fifteen minutes of Regulation Specialist staff time per filing at approximately \$70 an hour (based on an annual salary of \$84,000, adding average fringe benefits of 26% and average overhead of 25%, and dividing by 1,800 hours in a year).

¹ 6 broker-dealers x 12 hours per year = 72 hours.

² 253 + 10 + 72.

Consequently, the staff estimates that the additional cost to the Federal Government associated with reviewing approximately 263 such notices per year would be \$4,620 (66 hours x \$70).

15. Changes in Burden

The change in the reporting burden is due to a change in the number of notices filed by broker-dealers pursuant to Rule 17a-11 from 2014 to 2016. In addition, the changes in the reporting burden in this supporting statement clarify the types of respondents affected by the requirements of Rule 17a-11 – broker-dealers, and national securities exchanges and national securities associations.

16. Information Collection Planned for Statistical Purposes

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

17. Approval to Omit OMB Expiration Date

The Commission is not seeking approval to omit the 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.