

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 17f-2(c)

A. JUSTIFICATION

1. Necessity of Information Collection

Congress added Section 17(f) to the Securities Exchange Act of 1934 (“Exchange Act”)¹ in 1975 as part of the Securities Acts Amendments of 1975² in order to respond to a large number of securities thefts that occurred in the late 1960s. Testimony before the Senate Permanent Subcommittee of Investigations between 1971 and 1974 indicated that the trafficking in stolen securities certificates was profitable for organized crime and that the failure to have available to the financial community a means of easily identifying security-risk personnel was a contributing factor to that problem. Specifically, Section 17(f)(2) requires every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency to require that each of its partners, directors, officers, and employees be fingerprinted and to submit such fingerprints to the U.S. Attorney General for identification and appropriate processing. This section also authorizes the Commission to, by rule, exempt from the provisions of this paragraph any class of partners, directors, officers, and employees of any such member, broker, dealer, registered transfer agent, and registered clearing agency.

On March 16, 1976, the Commission adopted Rule 17f-2 under the Exchange Act. The general purposes of Rule 17f-2 are: (1) to identify security risk personnel (*i.e.*, persons with criminal history records for serious offenses); (2) to provide criminal record information so that employers can make fully informed employment decisions; and (3) to deter persons with a criminal record from seeking employment or association with covered entities. The rule attempts to achieve these purposes primarily by requiring, subject to certain exceptions, that every partner, director, officer, and employee of every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency (“covered entities”) be fingerprinted and that such fingerprints be submitted to the U.S. Attorney General or its designee (*i.e.*, the Federal Bureau of Investigation (“FBI”)).

Paragraph (c) of Rule 17f-2 specifies that covered entities may satisfy the fingerprinting requirement by submitting the required fingerprints through a registered national securities exchange or to a registered national securities association (collectively, also known as “self-regulatory organizations” or “SROs”) which, pursuant to a fingerprint plan filed with and declared effective by the Commission, forwards such fingerprints to the FBI for identification and appropriate processing.

¹ 15 U.S.C. 78q(f).

² Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

2. Purpose and Use of the Information Collection

The purpose of this requirement is based on the fact that the fingerprints are processed by the FBI, which will not accept or process fingerprints received directly from submitting organizations.³ Therefore, Commission approval of plans from SROs is essential to carry out the Congressional goal to fingerprint securities industry personnel. Filing fingerprint plans for approval by the Commission assures covered entities and their personnel that SROs will handle fingerprints responsibly.

3. Consideration Given to Information Technology

Rule 17f-2(a) requires covered entities to submit fingerprints to the U.S. Attorney General or its designee (in practice, the FBI). Improved information technology has enabled the FBI to collect such fingerprint records electronically. There is a trend by the securities industry to take advantage of electronic fingerprinting procedures as doing so substantially reduces the cost of compliance. In 2016, the fingerprint processing fees levied by FINRA and the FBI for hard copy (paper card) fingerprints decreased from approximately \$44.50 to \$40.00 per submission. The approximate processing fee for electronic fingerprint submissions also decreased from approximately \$30.25 to \$25.00 per submission.

4. Duplication

Rule 17f-2(b) provides that if fingerprints have already been taken pursuant to any other federal or state law or regulation and are submitted to the U.S. Attorney General or its designee, the requirements of Section 17(f)(2) of the Act are satisfied.

5. Effect on Small Entities

No information is requested from small entities.

6. Consequences of Not Conducting Collection

If the fingerprint plans were not collected and approved by the Commission, the Commission will be unable to meet the purposes of Section 17(f)(2) of the Act.

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

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

³ In practice, the Financial Industry Regulatory Authority (“FINRA”), which is a registered national securities association, submits most, if not all, of the fingerprint cards to the FBI on behalf of covered entities.

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

There were no payments or gifts to respondents.

10. Confidentiality

No assurance of confidentiality is provided by Rule 17f-2(d); information collected will otherwise be kept private to the extent protected by law.

11. Sensitive Questions

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

12. Burden of Information Collection

We received information dating to from 2016 to March 2017 from FINRA, which revealed that an annual average of 4,200 respondents have submitted an annual average of 285,600 sets of fingerprints (which includes both electronic and hard copy submissions) to FINRA. We estimate that it takes approximately 10 minutes to for respondents to collect the fingerprints through FINRA (electronically or manually by paper) and 5 minutes to submit them to the FBI (again, either electronically or by paper mail or courier service) in compliance with Rule 17f-2(c), for a total burden of 15 minutes per submission. Therefore, we estimate the total burden to be 71,400 hours (285,600 submissions times .25 hours). This represents a disclosure burden by the covered entities to third parties, namely FINRA and the FBI, and is assessed on a per-submission basis.

13. Costs to Respondents

Approximately 285,600 total sets of fingerprints are submitted annually (consisting of approximately 243,600 electronic sets and 42,000 hard copy sets). We estimate the total annualized cost to the industry to be \$7,770,000 as broken down further below by submission type.

There is currently an approximate \$25 fee levied by FINRA and the FBI to process each set of fingerprints submitted electronically. Approximately 243,600 sets of fingerprints are submitted electronically each year. Therefore, we estimate the total annualized cost to the industry to be \$6,090,000 (243,600 times \$25, rounded down to the nearest \$100). This cost reflects FINRA's and the FBI's costs associated with generating, maintaining, and disclosing the electronically submitted fingerprint information.

There is currently an approximate \$40 fee levied by FINRA and the FBI to process each set of fingerprints submitted in hard copy. Approximately 42,000 sets of fingerprints are submitted in hard copy each year. Therefore, we estimate the total annualized cost to the industry to be \$1,680,000 (42,000 times \$40, rounded down to the nearest \$100). This cost reflects FINRA's and the FBI's costs associated with generating, maintaining, and disclosing the fingerprint information submitted in hard copy.

14. Costs to Federal Government

The costs to the federal government to administer Rule 17f-2(c) are zero. First, the fingerprint cards are collected and submitted to the FBI by self-regulatory organizations. Second, while the Commission periodically reviews new fingerprinting plans that are submitted by SROs for Commission approval, the costs to the federal government for this aspect of the rule is composed solely of staff time to review such plans. For purposes of the Paperwork Reduction Act burden, this cost is considered zero.

15. Changes in Burden

The burden in Item 12 (total reporting burden in hours, 72,000 to 71,400) has decreased since 2014. This is due to a slight annual decrease in the number of fingerprint sets submitted by FINRA to the FBI.

The burden in Item 13 (total costs to respondents in dollars, \$9,987,300 to \$7,770,000) above has decreased since 2014. This is due to the decreased cost of processing electronic and hard copy fingerprint cards submitted by FINRA to the FBI and a shift from the use of paper submissions to the use of electronic submissions, which are less costly.

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 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

This collection does not involve statistical methods.