

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 12d2-1

A. Justification

1. Necessity of Information Collection

Section 12(a) of the Securities Exchange Act of 1934 (“Act”),¹ generally makes it unlawful for any member, broker, or dealer to effect any transaction in any security (other than an exempted security) on a national securities exchange unless the security is effectively registered on that exchange in accordance with the provisions of the Act and the rules thereunder. Rule 12d2-1 under the Act (“Rule”) provides the procedures by which a national securities exchange may suspend from trading a security that is listed and registered on the exchange. Under the Rule, an exchange is permitted to suspend from trading a listed security in accordance with its rules, and must promptly notify the Securities and Exchange Commission (“Commission”) of any such suspension, along with the effective date and the reasons for the suspension.

Any such suspension from trading may be continued until such time as the Commission may determine that the suspension is designed to evade the provisions of Section 12(d) of the Act and Rule 12d2-2 thereunder.² During the continuance of such suspension under the Rule, the exchange is required to notify the Commission promptly of any change in the reasons for the suspension. Upon the restoration to trading of any security suspended under the Rule, the exchange must notify the Commission promptly of the effective date of such restoration.

2. Purposes and Use of the Information Collection

The trading suspension notices serve a number of purposes. First, they inform the Commission that an exchange has suspended from trading a listed security or reintroduced trading in a previously suspended security. They also provide the Commission with information necessary to determine that the suspension has been accomplished in accordance with the rules of the exchange, and to verify that the exchange has not evaded the requirements of Section 12(d) of the Act and Rule 12d2-2 thereunder by improperly employing a trading suspension. Without the Rule, the Commission would be unable to fully implement these statutory responsibilities.

¹ 15 U.S.C. 78b et seq.

² Rule 12d2-2 prescribes the circumstances under which a security may be delisted from an exchange and withdrawn from registration under Section 12(b) of the Act, and provides the procedures for taking such action. Rule 12d2-2 and Form 25 are discussed in a separate submission (SEC File No. 270-86).

3. Consideration Given to Information Technology

The Commission and the national securities exchanges continue to improve their systems for information gathering and compilation through increasing use of computer technology. While the burdens associated with complying with the requirements of the Rule are small, the Commission staff believes that ongoing implementation of increasingly sophisticated information technology continues to further minimize these burdens.

4. Duplication

Not applicable.

5. Effect on Small Entities

Not applicable. Neither the national securities exchanges nor any issuer obligated to respond under the Rule, would be considered a small business as described in the OMB guidelines for completing this Submission.

6. Consequences of Not Conducting Collection

If the collection of information were conducted less frequently, the Commission would not have the timely information necessary to ensure that trading suspensions are accomplished in accordance with the rules of the exchange and that the exchange is in compliance with Section 12(d) of the Act. Since the information required by the Rule is not otherwise available to the Commission, the Rule is necessary for the Commission to be able to fully comply with its statutory responsibilities.

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

Not applicable.

10. Confidentiality

Not applicable.

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

There are 21 national securities exchanges³ that are subject to the requirements of Rule 12d2-1. The burden of complying with the Rule is not evenly distributed among the exchanges since there are many more securities listed on the New York Stock Exchange, the NASDAQ Stock Market, and NYSE American LLC than on the other national securities exchanges.⁴

The Commission staff has prepared the following breakdown of the respondents' relevant reporting hour burdens and related internal compliance costs:

For national securities exchanges filing suspension of trades, the staff has computed the average internal compliance cost per response to be approximately \$99.50, representing one-half reporting hour per response, including:

quarter hour of legal work @ \$362/hour⁵ = \$ 90.50

³ The Exchanges are BOX Options Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Chicago Stock Exchange, Inc., Investors Exchange LLC, Miami International Securities Exchange, MIAx PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market, New York Stock Exchange LLC, NYSE Arca, Inc., NYSE American LLC, NYSE National, Inc.

⁴ In fact, some exchanges do not file any trading suspension reports in a given year.

⁵ SIFMA did its last annual survey in 2013 and will not resume the survey process. The \$362 figure is based on the 2013 figure (\$334) adjusted for inflation. The \$334 per hour figure for legal work is the hourly rate of a compliance attorney from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

$$\text{quarter hour of compliance work @ \$69/hour}^6 = \frac{\$ 17.25}{\$ 107.75}$$

There are approximately 964 responses⁷ to the Commission from the national securities exchanges each year, the resultant aggregate annual reporting hour burden would be, assuming on average one-half reporting hour per response, 482 annual burden hours for all exchanges (964 responses divided by 2). The related internal compliance costs associated with these burden hours are \$103,871 per year (964 responses x \$107.75).

13. Costs to Respondents

Not applicable; (a) it is not anticipated that respondents will have to incur any capital and start up cost to comply with the Rule; (b) it is not anticipated that the respondents will have to incur any additional operational or maintenance cost to comply with the Rule.

14. Costs to Federal Government

There are no agency records prior to fiscal year 1981 that would permit the Commission staff to compute the cost of developing the Rule. Concerning ongoing costs to the Federal Government, based on its experience with reviewing and processing trading suspension notices, the Commission staff believes that the operational costs to the Commission of a typical notification should amount to approximately \$28.75. There are approximately 964 responses annually; the total estimated cost to the Federal Government would be approximately \$27,715. These estimates were arrived at based on computations of staff time devoted to processing these responses and related overhead costs (valued at 25 percent of the cost of staff time, in accordance with the formulas set forth in the Guide to Estimating Reporting Costs (1973)).

15. Changes in Burden

The annual burden hours decreased from 800 to 482 hours because there were 636 fewer responses when compared to the PRA renewal in 2015.

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

⁶ The \$69 figure is based on the 2013 figure (\$64) adjusted for inflation. See *supra* note 5. The \$64 per hour figure for compliance work is the hourly rate of a compliance clerk from SIFMA's Management & Professional Earnings in the Securities Industry 2013.

⁷ The 964 figure was calculated by averaging the numbers for compliance in 2016 and 2017, which are 1,002 and 925, respectively.

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.