

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

A. Justification

(1) Necessity of Information Collection

On March 16, 1976, the Commission adopted Rule 17f-2, implementing Section 17(f)(2) of the Securities Exchange Act of 1934 (the "Act"). Paragraph (a) of that Section and Rule 17f-2(a) thereunder provide that every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency ("covered entities") must require each of its partners, directors, officers, and employees to be fingerprinted and must submit or cause to be submitted such fingerprints to the designee of the Attorney General of the United States (the FBI) for appropriate identification and processing.

Section 17(f)(2) of the Act was a response by Congress to the large number of securities thefts which occurred in the late 1960's. Testimony at the hearing conducted before the Senate Permanent Subcommittee on Investigations between 1971 and 1974 indicated that the trafficking in stolen securities was a profitable area 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.

The purpose of Rule 17f-2(a) is to facilitate the identification of security-risk personnel (*i.e.*, persons with criminal history records for serious offenses), to provide criminal history record information so that employers can make fully informed employment decisions, and to deter such persons from seeking employment or association with covered entities.

(2) Purpose and Use of the Information Collection

Fingerprint cards are provided to covered entities by the appropriate self-regulatory organization ("SRO"). The SRO then forwards the cards to the FBI. The FBI processes the cards and returns those cards with any criminal history to the SRO. The SRO, in turn, returns the cards, together with any criminal history record information, to the covered entity that initially submitted the fingerprint cards. Processed fingerprint cards and criminal histories (if any) are reviewed by the covered entity to identify security-risk personnel, to allow for fully-informed decisions regarding employment or association of persons with a covered entity, and to deter persons with criminal histories from seeking employment or association with a covered entity. Without paragraph (a) of Rule 17f-2, benefits of the Rule to the securities industry would be lost, and the only nationwide, uniform fingerprinting program for the securities industry would be rendered inoperable.

(3) Consideration Given to Information Technology

Not applicable.

(4) Duplication

If, in connection with their present employment, a new hire in the securities industry has been fingerprinted pursuant to any other statute or regulation, those fingerprint cards may be submitted to the Attorney General for processing, and the processed cards may be maintained in accordance with this rule

(5) Effect on Small Entities

The reporting requirement only applies to newly hired personnel in the securities industry. A small entity, therefore, would be affected by the Rule only when it hires new personnel.

(6) Consequences of Not Conducting Collection

The reporting requirement is on "an event" basis only.

(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 release 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 is provided to respondents.

(10) Confidentiality

No assurance of confidentiality is provided.

(11) Sensitive Questions

Rule 17f-2 requires the collection of personally identifiable information (PII) including fingerprints and other sensitive information by covered entities under the rule for the purposes of ensuring that their employees complete the fingerprinting process as mandated. The covered entities must collect and maintain the PII in accordance with the rule. Under Rule 17f-2(c), a covered entity also may comply with the rule by submitting fingerprint cards to a national securities exchange or national securities association pursuant to a fingerprinting plan that has been declared effective by the SEC. The agency has determined that a SEC system of records notice (SORN) is not required because the collection is not an SEC record under the Privacy Act of 1974. Also, a PIA is not required because the information is not collected in an SEC IT system.

(12) Burden of Information Collection

The Commission staff estimates that approximately 4,480 covered entities per year are required to fingerprint their partners, directors, officers, or employees, unless otherwise exempt. The Financial Industry Regulatory Authority (FINRA), through its fingerprinting programs, handles the majority of fingerprint cards submitted to the FBI. On the basis of FINRA's estimates, we have concluded that approximately 289,780 fingerprint cards are prepared annually, or an average of approximately 65 cards per respondent. Also, we believe that one-half an hour is required to complete a fingerprint card. Thus, the total estimated annual burden for all respondents to comply with the requirements of Rule 17f-2(a) is 144,890 hours (289,780 times one-half hour). The average internal labor cost of compliance per hour is approximately \$283.¹ Therefore, the total estimated annual internal labor cost of compliance for all respondents is \$41,003,870 (144,890 times \$283).

(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 (other than provided for in item no. 12) to comply with the rule.

(14) Costs to Federal Government

Costs to the Federal Government in administering Rule 17f-2(a) are minimal. The staff presently receives no more than three inquiries per week. Inquiries can be responded to within one-half hour. Thus, the staff estimates that approximately 78 hours of staff time per year will be devoted to answering oral inquiries at a cost of \$3,900 per year (78 hours x \$50 hourly cost).² This figure is based on computation of the value of government staff time devoted to this activity and the related overhead valued at 35% of the value of staff time.

(15) Changes in Burden

The total annual hourly burden has been reduced from 150,350 hours to 144,890 hours due to a decrease in the estimate of number of fingerprints taken each year pursuant to Rule 17f-2(a).

(16) Information Collection Planned for Statistical Purposes

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

¹ The estimated hourly wages used in this analysis were derived from reports prepared by the Securities Industry and Financial Markets Association. See Securities Industry and Financial Markets Association, Office Salaries in the Securities Industry – 2013 (2013), modified to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

² Note this cost estimate does not include any costs of the FBI/Department of Justice to process and maintain fingerprint cards. See, e.g., OMB control # 1110-0046.

(17) Approval to Omit OMB Expiration Date

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

(18) Exceptions to Certification

This collection complies with the requirements in 5 CFR 1320.9.

B. Collection of Information Employing Statistical Methods

No statistical methods are employed in connection with the collection of information.