

## **SUPPORTING STATEMENT**

### **FOR THE PAPERWORK REDUCTION ACT SUBMISSION FOR A RENEWAL OF AN INFORMATION COLLECTION**

#### **“OMBUDSMAN MATTER MANAGEMENT SYSTEM”**

##### **A. JUSTIFICATION**

###### **1. CIRCUMSTANCES MAKING THE COLLECTION OF INFORMATION NECESSARY**

In 2017, the Securities and Exchange Commission (“Commission”) introduced the Ombudsman Matter Management System (“OMMS”), an electronic data collection system for the receipt, collection and analysis of inquiries, complaints, and recommendations from retail investors directed to the SEC Ombudsman and the Office of the Investor Advocate. Section 4(g)(8) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. § 78d(g)(8) requires the SEC Ombudsman to (i) act as a liaison between the Commission and any retail investor in resolving problems that retail investors may have with the Commission or with self-regulatory organizations (“SROs”); (ii) review and make recommendations regarding policies and procedures to encourage persons to present questions to the Investor Advocate regarding compliance with the securities laws; and (iii) establish safeguards to maintain the confidentiality of communications between the persons described in clause (ii) and the Ombudsman. In addition, Section 4(g)(8) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. § 78d(g)(8) requires the Ombudsman to submit a semi-annual report to the Investor Advocate describing the activities and evaluating the effectiveness of the Ombudsman during the preceding year.

Prior to 2017, the Ombudsman utilized a manual system to input investor inquiries and concerns, track staff responses, and analyze data and trends. This process was time-intensive and not optimally efficient. To address these challenges, the Commission retained consultants to build an electronic record-keeping system. The result was OMMS, which was launched for internal use by SEC staff in 2017.

OMMS was designed to automate the information collection and management process, centralize records and related information in a single system, and increase the efficiency with which the staff can access and use that information. OMMS uses a web-based form (the “OMMS Form”) to guide the user through a series of basic questions, prepopulated lists, and fillable input fields specifically tailored to elicit information concerning matters within the scope of the Ombudsman’s function. The OMMS Form, which was made available to the public for use in September 2017, requests detailed contact information to enhance efficient communication with users and provides an electronic attachment feature for users to upload and submit related documents for staff review. The Commission records and provides user feedback

to its consultants, as necessary, in an effort to improve subsequent iterations of OMMS and the OMMS Form.

## **2. PURPOSE AND USE OF THE INFORMATION COLLECTION**

The purpose of collecting and managing information via OMMS is to enhance the overall effectiveness of services provided by the Ombudsman. OMMS is designed to: (i) provide an efficient, user-friendly and mobile-friendly method for retail investors to submit detailed information to the Ombudsman; (ii) automate a significant portion of the existing manual intake process; (iii) reduce staff resources required to track and monitor matters and responses; (iv) increase staff resources available to interact with investors, research issues, and resolve concerns; and (v) supplement the existing safeguards used to maintain the confidentiality of communications with the Ombudsman.

The key use of information collected is to: (i) identify and respond to problems retail investors have with the Commission or with SROs; (ii) track and analyze matter volume, response, and resolution times; (iii) categorize and report matter trends and concerns; and (iv) provide data-driven support for recommendations presented by the Ombudsman to the Investor Advocate for review and consideration.

## **3. CONSIDERTATION GIVEN TO INFORMATION TECHNOLOGY**

Prior to 2017, the public was able to contact the Ombudsman through traditional mail, electronic mail, telephone and facsimile only. However, since the launch of the OMMS electronic data collection system, the public is now able to contact the Ombudsman through OMMS (using the OMMS Form) in addition to previously existing methods.

Persons who choose to contact the Ombudsman via the OMMS Form encounter user-friendly and mobile-friendly features such as radio buttons, drop-down menu responses, pop-up explanation bubbles, webpage links, fillable narrative text fields, and document upload options. In addition, the OMMS Form incorporates functionality that, depending upon certain responses, pre-populates specific fields and prompts the user to provide additional information. By eliciting specific information from the user, the OMMS Form facilitates communication between the user and the Ombudsman, reduces response and resolution times, and maximizes Ombudsman staff resources available for recording, processing, and responding to matters.

The requested information collection is voluntary irrespective of the method of communication by which persons contact the Ombudsman. Further, persons who do not choose to use the OMMS Form will receive the same level of service and attention to their concerns as those who do.

#### **4. DUPLICATION OF INFORMATION**

OMMS, and the corresponding OMMS Form, are tailored as described in Item 2 above to collect and retain information in a manner designed to support the Ombudsman's statutory requirements under Section 4(g)(8) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. § 78d(g)(8).

Prior to 2017, there was no existing collection instrument available to gather electronically the information necessary to meet the particular purposes described in Item 2 above and there was no system available to manage and retain that information in a manner that supports the Ombudsman's statutory requirements, including the requirement to establish safeguards to maintain the confidentiality of communications between certain persons and the Ombudsman.

#### **5. REDUCING THE BURDEN ON SMALL ENTITIES**

The burden of compliance with the information collection requirement does not impact small businesses or other small entities.

#### **6. CONSEQUENCES OF NOT CONDUCTING COLLECTION**

The information solicited via the OMMS Form is the foundational information the Ombudsman relies upon to effectively serve as a liaison between the Commission and retail investors seeking assistance to resolve conflicts they may have with the Commission or with SROs. Likewise, the information covered by the OMMS Form is the same information the Ombudsman currently gathers manually (if required to do so due to the method of communication by which persons contact the Ombudsman) to support the review, recommendation, and reporting obligations under Section 4(g)(8) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. § 78d(g)(8).

Prior to the launch of OMMS in 2017, the Ombudsman and staff were dependent upon manual information management methods to collect, document, track, and respond to telephone, electronic mail, facsimile, and paper correspondence received from retail investors and others members of the public. This data collection method limited the use and accuracy of the information recorded and the efficacy of staff resources. Furthermore, manual documentation of and responses to a single inquiry dictated that staff enter, update, and search for related data in multiple systems. These separate systems also required independent procedures for maintaining the confidentiality of different types of information when circumstances so dictated.

#### **7. SPECIAL CIRCUMSTANCES**

There are no special circumstances.

## **8. CONSULTATIONS WITH PERSONS OUTSIDE THE AGENCY**

No comments were received during the 60-day comments period prior to OMB's review of this submission.

## **9. PAYMENT OR GIFT TO RESPONDENTS**

There are no such gifts or payments to respondents.

## **10. CONFIDENTIALITY**

Section 4(g)(8) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. § 78d(g)(8) requires the Ombudsman to establish safeguards to maintain the confidentiality of certain communications. The Ombudsman has existing safeguards in place, including a separate email address, dedicated telephone and fax lines, and secure file storage, to protect the confidentiality of communications. OMMS, the OMMS Form, and the use of information submitted via the OMMS Form, complies with Section 4(g)(8) of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. § 78d(g)(8) and with the security, privacy, and confidentiality requirements and policies established by the Commission. The OMMS Form provides additional information about privacy and confidentiality, and includes a web link to the Commission's privacy policy and related information available on [www.sec.gov](http://www.sec.gov).

In addition, to support and augment these requirements and policies, the Ombudsman follows a confidentiality standard of practice whereby information provided by a person in confidence, including identity, is not disclosed unless expressly authorized by the person to do so or if required by law or other exigent circumstances, such as a threat of imminent risk or serious harm. At times, the Ombudsman may need to disclose information on a limited basis to other agency staff to address inquiries and related issues. In these instances, information is shared only to the extent necessary to route and review the matter. This standard of practice is substantially similar to the standard of practice followed by ombudsmen at other federal financial regulatory agencies.

## **11. SENSITIVE QUESTIONS**

No information of a sensitive nature, including social security numbers, will be required under this collection of information. The information collection collects basic Personally Identifiable Information (PII) that may include Name, Home Address, Home Telephone Number, Home Email Address, Home Zip Code, Job Title, Work Address, Work Telephone Number, Work Email Address, Work Fax Number, Business Associates, and Date/Time of Matter Submission. The agency has determined that the information collection constitutes a system of record for purposes of the Privacy Act and is covered under System of Records Notice (SORN) SEC-65. The SEC-65 SORN, published on May 24, 2011, is provided as a supplemental document and is also available at <https://www.sec.gov/privacy>. In accordance with Section 208 of the E-Government Act of 2002, the agency has conducted a Privacy Impact Assessment (PIA) of the OMMS system, in connection with this collection of information. The OMMS PIA,

published on September 15, 2016 is provided as a supplemental document and is also available at <https://www.sec.gov/privacy>. A Privacy Act e(3) Statement is applicable to the information collection and will be available on the web form, which is located at <https://secir.secure.force.com/ombudsman/>. The Privacy Act Statement appears both under “Important Information – Please Read” at the top of the Form and in the footer appearing at the bottom of the Form.

## **12. ESTIMATE OF RESPONDENT REPORTING BURDEN**

For purposes of the Paperwork Reduction Act, we estimate that the OMMS Form requires approximately 30 minutes per response to comply with the collection of information requirements and project that respondents will submit 800 responses per year during the renewal period.<sup>1</sup> We derived our burden hour estimates by estimating the average number of hours (.5) it would take a respondent to compile the necessary information and data, input the optional and required information into the OMMS Form, and attach any additional supporting documentation.

Our estimate of 800 responses is based on our year-to-date data for FY2019 that shows we have received over 650 responses via the OMMS Form as of August 1, 2019. We believe the increase in OMMS Form submission activity from FY2017 and FY2018 to FY2019 is, in part, due to the first time placement of a link to the Ombudsman website and the OMMS Form on the SEC homepage and on social media channels during FY2019. In addition to the increased accessibility of the OMMS Form from the SEC homepage and through social media, the continued maturation of the Office and general rise in the public’s awareness of the Ombudsman function and the OMMS Form has also contributed to increased OMMS Form submissions during this fiscal year.

Based on our estimates, we calculate the total reporting burden to be 400 hours (.5 hours x 800 responses). The estimate of burden hours is made solely for the purpose of the Paperwork Reduction Act. It is not derived from a comprehensive or even a representative survey or study of the cost of Commission rules and forms. We anticipate that the specific number of responses may fluctuate annually around our projected figure based on market and other activity.

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<sup>1</sup> For purposes of our discussion of estimated reporting burdens and cost to the federal government (in Items 12 through Item 15, *infra*), we refer to new matters submitted via the OMMS Form as “responses.”

**TABLE 1. INCREMENTAL PAPERWORK BURDEN FOR THE OMMS FORM**

IC Title [Examples of ICs]	Annual No. of Responses			Annual Time Burden (in Hrs.)			Change in Burden (in Hrs.)		
	Previously	Requested	Change	Previously approved	Requested	Change	Previously approved	Requested	Change
OMMS Form	500	800	+300	.5	.5	0	250	400	+150
<b>Total</b>	500	800	+300	.5	.5	0	250	400	+150

**13. ESTIMATE OF TOTAL ANNUALIZED COST BURDEN**

There are no fees or costs charged to use the OMMS Form. Likewise, users need no unique equipment specific to the SEC to respond to this information collection. Users may fill out and submit the OMMS Form using any standard device that allows the user to complete, submit, and transmit a web form to specific recipients.

**14. COST TO FEDERAL GOVERNMENT**

The estimated cost to the federal government has changed from \$515,833 in 2016 to \$612,000 in 2019. This change in burden reflects the elimination of startup costs of \$400,000, which were previously annualized over three years at \$133,000 per annum. During the three-year period covered by the prior PRA submission in 2016, the OMMS startup costs were fully expensed and are therefore no longer included in the renewal calculation.

Because there are no longer annualized start-up costs associated with OMMS, the estimated cost to the federal government is based solely on the cost of SEC staff time required to review and respond to the OMMS Forms received. The number of responses received per year is estimated to increase (from 500 to 800) and the associated cost increase due to the higher number of responses is expected to offset the cost reduction from the elimination of startup costs discussed in the preceding paragraph.

Breaking the cost down into its components, the estimated cost to the federal government assumes:

***Regular Annual Costs:***

- Estimated staff attorney hours reviewing and responding per form submitted: 3 hours
- Estimated number of responses submitted annually: 800
- SEC hourly cost for professional staff (CPI adjusted since 2009): \$255

***Total Annual Cost (including annualized start-up costs)***

**Annual Creation Cost + (Attorney hours x responses x hourly rate)**

$$0 + (3 \times 800 \times 255) = \$612,000$$

The total estimated cost to the government based on the assumptions noted above is \$612,000 per year. This estimate is solely for purposes of the Paperwork Reduction Act.

**15. REASON FOR CHANGE IN BURDEN**

The Commission anticipates that the burdens imposed by the OMMS Form will vary depending on the complexity of the issues raised with the Ombudsman and the amount of information possessed by the individual contacting the Ombudsman based on the circumstances involved, the individual’s level of industry expertise, and whether the individual seeks the Ombudsman’s assistance for a complaint or wishes to provide information and/or recommendations for the consideration of the Investor Advocate. With that in mind, the Commission estimates the burdens as follows:

**Estimated number of annual responses from all users = 800 responses**  
**Estimated annual reporting burden = 400 hours (30 minutes per submission)**

These numbers reflect our estimate that the number of annual responses from all users will increase by 300.<sup>2</sup> At an estimated reporting burden of 30 minutes per OMMS Form submission, which is the same burden estimated in 2016, an additional 300 submissions from all users of the OMMS Form would result in an increased burden of 150 hours.<sup>3</sup>

**TABLE 2. CURRENT AND REVISED BURDENS FOR THE OMMS FORM**

	Current Annual Burden		Revised Annual Burden		Annual Program Change	
	Burden Hours (A)	Cost (B)	Burden Hours (C)	Costs (D)	Burden Hours (E)	Costs (F)
OMMS Form	.5 x 500	0	.5 x 800	0	150	0

As noted in Item 13 above, there is no cost burden to users associated with the increase in burden hours.

**16. INFORMATION COLLECTIONS PLANNED FOR STATISTICAL PURPOSES**

Not applicable.

<sup>2</sup> Our methodology is further discussed under Item 12 above.

<sup>3</sup> The estimated annual reporting burden specifically refers to the burden we anticipate that respondents using the OMMS Form to contact the Ombudsman will bear. The completion of each OMMS Form is a one-time burden of 30 minutes for the user, and each use is strictly voluntary.

**17. EXPLANATION AS TO WHY EXPIRATION DATE WILL NOT BE DISPLAYED**

Not applicable.

**18. EXCEPTIONS TO CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS**

This collection complies with the requirements in 5 CFR 1320.9.

**B. STATISTICAL METHODS**

Not applicable. This collection will not involve statistical methods.