TM Draft 9.5.19

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for Rule 201 and Rule 200(g) of Regulation SHO

A. Justification

1. Necessity of Information Collection

i. Policies and Procedures Requirement under Rule 201

The information collected under Rule 201's written policies and procedures requirement helps ensure that trading centers do not execute or display any impermissibly priced short sale orders, unless an order is marked "short exempt," in accordance with the Rule's requirements. The information collected also aids the Commission and self-regulatory organizations ("SROs") that regulate trading centers in monitoring compliance with the Rule's requirements. In addition, it aids trading centers and broker-dealers in complying with the Rule's requirements.

ii. Policies and Procedures Requirements under Broker-Dealer and Riskless Principal Provisions

The information collected under the written policies and procedures requirement of the broker-dealer provision of Rule 201(c) helps prevent the incorrect identification of orders for purposes of the broker-dealer provision. The information collected under the written policies and procedures requirement of the riskless principal provision of Rule 201(d)(6) helps to ensure that broker-dealers comply with the requirements of the riskless principal provision. The information collected also enables the Commission and SROs to examine for compliance with the requirements of these provisions.

iii. Marking Requirements

The information collected pursuant to the "short exempt" marking requirement of Rule 200(g) enables the Commission and SROs to monitor whether a person entering a sell order covered by Rule 201 is acting in accordance with one of the provisions contained in paragraph (c) or paragraph (d) of Rule 201. In particular, the "short exempt" marking requirement provides a record that will aid in surveillance for compliance with the provisions of Rule 201. It also provides an indication to a trading center when it must execute or display a short sale order without regard to whether the short sale order is at a price that is less than or equal to the national best bid. In addition, it helps a trading center determine whether its policies and procedures are reasonable and whether its surveillance is effective.

2. Purpose and Use of the Information Collection

Rule 201 is a short sale-related circuit breaker rule that, if triggered, imposes a restriction on the prices at which securities may be sold short. Specifically, the Rule requires that a trading center establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order of a covered security at a price that is less than or equal to the current national best bid if the price of that covered security decreases by 10% or more from the covered security's closing price as determined by the listing market for the covered security as of the end of regular trading hours on the prior day. In addition, the Rule requires that the trading center establish, maintain, and enforce written policies and procedures reasonably designed to impose this short sale price test restriction for the remainder of the day and the following day when a national best bid for the covered security is calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effective national market system plan.

Rule 200(g) provides that a broker-dealer may mark certain qualifying sell orders "short exempt." In particular, if the broker-dealer chooses to rely on its own determination that it is submitting the short sale order to the trading center at a price that is above the current national best bid at the time of submission or to rely on an exception specified in the Rule, it must mark the order as "short exempt."

As stated above, the information collected under Rule 201's written policies and procedures requirement applicable to trading centers, the written policies and procedures requirement of the broker-dealer provision of Rule 201(c), the written policies and procedures requirement of the riskless principal provision of Rule 201(d)(6), and the "short exempt" marking requirement of Rule 200(g) enable the Commission and SROs to examine and monitor for compliance with the requirements of Rule 201 and Rule 200(g).

In addition, the information collected under Rule 201's written policies and procedures requirement applicable to trading centers help ensure that trading centers do not execute or display any impermissibly priced short sale orders, unless an order is marked "short exempt," in accordance with the Rule's requirements. Similarly, the information collected under the written policies and procedures requirement of the broker-dealer provision of Rule 201(c) and the riskless principal provision of Rule 201(d)(6) help to ensure that broker-dealers comply with the requirements of these provisions. The information collected pursuant to the "short exempt" marking requirement of Rule 200(g) also provide an indication to a trading center when it must execute or display a short sale order without regard to whether the short sale order is at a price that is less than or equal to the current national best bid.

3. <u>Consideration Given to Information Technology</u>

Since Rules 201 and 200(g) do not specify a particular format, respondents may use automation, or other forms of information technology, to the extent they find it helpful.

4. <u>Duplication</u>

We are not aware of duplication of this information.

5. Effects on Small Entities

The collection of information necessary to ensure compliance with the requirements of Rules 201 and 200(g) is not unduly burdensome on smaller entities. Much of the requisite information is otherwise collected and maintained by industry members in connection with existing Commission or SRO rules. Moreover, the information is generally that which a broker-dealer or participant of a registered clearing agency would maintain in the ordinary course of its business.

6. Consequences of Not Conducting Collection

Failure to collect the required information, as discussed above, would impede the ability to verify compliance with Rule 201 and Rule 200(g).

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; no payments or gifts were or will be provided to respondents.

10. Confidentiality

No assurances of confidentiality are provided in the statute or the Rules.

11. Sensitive Questions

The information collection requires that broker dealers maintain reasonably designed policies and procedures under Regulation SHO. Neither Rule 200(g) nor Rule 201 of Regulation SHO require that a broker-dealer affirmatively provide the SEC with their policies and procedures. No information of a sensitive nature, including social security numbers, will be required under this collection of information. The information collection does not collect personally identifiable information (PII). The agency has determined that a system of records notice (SORN) and privacy impact assessment (PIA) are not required in connection with the collection of information.

12. Burden of Information Collection

The total time burden for the rules for all respondents is 1,621,571 hours annually. This burden is calculated as indicated below.

i. Policies and Procedures Requirement under Rule 201

Rule 201 requires each trading center to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order of a covered security at a price that is less than or equal to the current national best bid during the period when the short sale price test restriction of Rule 201 is in effect. Thus, trading centers must have written policies and procedures reasonably designed to permit the trading center to be able to obtain information from the single plan processor regarding whether a covered security is subject to the short sale price test restriction of Rule 201; if the covered security is subject to the short sale price test restriction of Rule 201, to determine whether or not the short sale order is priced in accordance with the provisions of Rule 201(b); and to recognize when an order is marked "short exempt" such that the trading center's policies and procedures do not prevent the execution or display of such order at a price that is less than or equal to the current national best bid, even if the covered security is subject to the short sale price test restriction of Rule 201.

A "trading center" is defined, under Rule 201(a)(9), as "a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent." Because Rule 201 applies to any trading center that executes or displays a short sale order in a covered security, the Rule applies to 23 registered national securities exchanges that trade covered securities (or "SRO trading centers"),[1] and approximately 252 broker-dealers (including alternative trading systems, or "ATSs") registered with the Commission (or "non-SRO trading centers").[2]

Although the exact nature and extent of the policies and procedures that a trading center must establish vary depending upon the nature of the trading center (*e.g.*, SRO vs. non-SRO, full service broker-dealer vs. market maker), we estimate that, on average, it takes an SRO trading

[1] Currently, there are 23 national securities exchanges (BOX, CboeBYX, CboeBZX, C2, CboeEDGA, CboeEDGX, Cboe, IEX, LTSE, MIAX, EMERALD, PEARL, BX, GEMX, ISE, MRX, Phlx, NASDAQ, NYSE, NYSEArca, NYSEAMER, NYSECHX, and NYSENAT) that operate an SRO trading facility for covered securities and thus are subject to the Rule. We previously indicated that one national securities association (FINRA) would also be subject to the Rule. *See* Exchange Act Release No. 61595 (Mar. 10, 2010), 75 FR 11232, 11280, n. 650 (Feb. 26, 2010) ("Adopting Release").

[2] This number includes the approximately 165 firms that were registered equity market makers, options market makers, or specialists at year-end 2018 (this number was derived from annual FOCUS reports), as well as the 87 ATSs that operate trading systems that trade covered securities as of August 2019. The Commission believes it is reasonable to estimate that in general, firms that are block positioners - *i.e.*, firms that are in the business of executing orders internally - are the same firms that are registered market makers (for instance, they may be registered as a market maker in one or more Nasdaq stocks and carry on a block positioner business in exchange-listed stocks), especially given the amount of capital necessary to carry on such a business.

center approximately 220 hours[3] of legal, compliance, information technology and business operations personnel time,[4] and a non-SRO trading center approximately 160 hours[5] of legal, compliance, information technology and business operations personnel time,[6] to establish the required policies and procedures. We estimate for purposes of this PRA extension that approximately 3 new SRO trading centers and approximately 30 new non-SRO trading centers will register with the Commission over the next three years[7] and therefore become subject to the policies and procedures requirement under Rule 201. Based on these figures, we estimate that it will require a total of 660 hours[8] for SRO trading centers to establish the required written policies and procedures, and a total of 4,800 hours[9] for non-SRO trading centers to establish the required written policies and procedures. Thus, we estimate a total of approximately 5,460

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3 We are basing our estimates on the burden hour estimates provided in connection with the adoption of Regulation NMS because the policies and procedures developed in connection with that Regulation's Order Protection Rule are in many ways similar to what a trading center would need to do to comply with Rule 201. *See* Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 ("Regulation NMS Adopting Release"); *see also* Adopting Release, 75 FR at 11283. We note, however, that these estimates may be on the high end because trading centers have already had to establish similar policies and procedures to comply with Regulation NMS.

4 Based on experience and estimates provided in connection with Regulation NMS, we anticipate that of the 220 hours we estimate will be spent to establish the required policies and procedures, 70 hours will be spent by legal personnel, 105 hours will be spent by compliance personnel, 20 hours will be spent by information technology personnel and 25 hours will be spent by business operations personnel of the SRO trading center.

5 We are basing our estimates on the burden hour estimates provided in connection with the adoption of Regulation NMS because the policies and procedures developed in connection with that Regulation's Order Protection Rule are in many ways similar to what a trading center will need to do to comply with Rule 201. *See* Regulation NMS Adopting Release, 70 FR 37496; *see also* Adopting Release, 75 FR at 11283. We note, however, that these estimates may be on the high end because trading centers have already had to establish similar policies and procedures to comply with Regulation NMS.

6 Based on experience and the estimates provided in connection with Regulation NMS, we anticipate that of the 160 hours we estimate will be spent to establish policies and procedures, 37 hours will be spent by legal personnel, 77 hours will be spent by compliance personnel, 23 hours will be spent by information technology personnel and 23 hours will be spent by business operations personnel of the non-SRO trading center.

7 Since the prior PRA extension, there are 4 additional SRO trading centers (23 currently, versus 19 in the prior PRA extension). Thus, for purposes of this PRA extension, we estimate that 3 new SRO trading centers (*i.e.*, national securities exchanges) may register with the Commission over the next three years (an average of 1 each year). Since the prior PRA extension, there has been an approximate 23% decline in the number of registered equity market makers, options market makers, or specialists (165 at year-end 2018, versus 215 at year-end 2015 as noted in the prior PRA extension). Therefore, for purposes of this PRA extension, based on this downward trend, we estimate that no new registered equity market makers, options market makers, or specialists will register over the next three years. Additionally, for purposes of this PRA extension, based on recent trends, we estimate that approximately 30 new ATSs may notice their operations on Form ATS with the Commission over the next three years (an average of 10 each year). Thus, we estimate that 30 new non-SRO trading centers (*i.e.*, market makers, specialists, and ATSs) may register with the Commission over the next three years.

8 The estimated 660 burden hours necessary for SRO trading centers to establish policies and procedures are calculated by multiplying 3 times 220 hours (3 x 220 hours = 660 hours).

9 The estimated 4,800 burden hours necessary for non-SRO trading centers to establish policies and procedures are calculated by multiplying 30 times 160 hours (30 x 160 hours = 4,800 hours).

burden hours, or approximately 1,820 hours amortized over three years, for trading centers to establish the required written policies and procedures.[10]

Although the exact nature and extent of the policies and procedures of a trading center vary depending upon the nature of the trading center (*e.g.*, SRO vs. non-SRO, full service broker-dealer vs. market maker), we estimate that, on average, it takes an SRO and non-SRO trading center each approximately two hours per month of on-going internal legal time and three hours per month of on-going internal compliance time to ensure that its written policies and procedures are up-to-date and remain in compliance with Rule 201, or a total of 60 hours annually per respondent.[11] In addition, we estimate that, on average, it takes an SRO and non-SRO trading center each approximately 16 hours per month of on-going compliance time, 8 hours per month of on-going information technology time, and 4 hours per month of on-going legal time associated with on-going monitoring and surveillance for and enforcement of trading in compliance with Rule 201, or a total of 336 hours annually per respondent.[12] Thus, we estimate a total of 108,900 annual burden hours for all trading centers to ensure that their written policies and procedures are up-to-date and remain in compliance with Rule 201 and for on-going monitoring and surveillance for and enforcement of trading in compliance with Rule 201.[13]

ii. <u>Policies and Procedures Requirements under the Broker-Dealer and Riskless Principal Provisions</u>

To rely on the broker-dealer provision of Rule 201(c), a broker-dealer marking a short sale order in a covered security “short exempt” under Rule 201(c) must identify the order as being at a price above the current national best bid at the time of submission to the trading center and must establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent the incorrect identification of orders as being submitted to the trading center at a permissible price. At a minimum, the broker-dealer’s policies and procedures must be reasonably designed to enable a broker-dealer to monitor, on a real-time basis, the national best bid so as to determine the price at which the broker-dealer may submit a short sale order to a trading center in compliance with the requirements of Rule 201(c). In addition, a broker-dealer must take such steps as necessary to enable it to enforce its policies and procedures effectively.

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[10] These figures were calculated as follows: 660 hours + 4,800 hours = 5,460 hours; 5,460/3 = 1,820 hours.

[11] This figure was calculated as follows: (2 legal hours x 12 months) + (3 compliance hours x 12 months) = 60 hours annually per respondent. As discussed above, this burden estimate of 60 hours is based on experience and what was estimated for Regulation NMS to ensure that written policies and procedures were up-to-date and remained in compliance. *See* Regulation NMS Adopting Release, 70 FR 37496; *see also* Adopting Release, 75 FR at 11283.

[12] This figure was calculated as follows: (16 compliance hours x 12 months) + (8 information technology hours x 12 months) + (4 legal hours x 12 months) = 336 hours annually per respondent. This burden estimate of 336 hours is based on experience and what was estimated for Regulation NMS regarding similarly required on-going monitoring and surveillance for and enforcement of trading in compliance with that regulation’s policies and procedures requirement.

[13] This figure was calculated as follows: (60 hours x 275 current respondents) + (336 hours x 275 current respondents) = 108,900 hours annually for all respondents.

To rely on the riskless principal provision under Rule 201(d)(6), a broker-dealer must have written policies and procedures in place to assure that, at a minimum: (i) the customer order was received prior to the offsetting transaction; (ii) the offsetting transaction is allocated to a riskless principal or customer account within 60 seconds of execution; and (iii) that it has supervisory systems in place to produce records that enable the broker-dealer to accurately and readily reconstruct, in a time-sequenced manner, all orders on which the broker-dealer relies pursuant to this provision.

While not all broker-dealers enter sell orders in securities covered by Rule 201 and Rule 200(g) in a manner that will subject them to this collection of information, we estimate, for purposes of this PRA extension, that all of the approximately 3,805 registered broker-dealers (as of January 1, 2019) will do so. For purposes of this PRA extension, the Commission staff has estimated that there were approximately 1.249 trillion "short exempt" orders entered during 2018.[14]

Although the exact nature and extent of the required policies and procedures that a broker-dealer must establish under the broker-dealer or the riskless principal provisions vary depending upon the nature of the broker-dealer (*e.g.*, full service broker-dealer vs. market maker), we estimate that, on average, it takes a broker-dealer approximately 160 hours[15] of legal, compliance, information technology and business operations personnel time,[16] to develop the required policies and procedures. The number of broker-dealers registered with the Commission has declined by approximately 11% over the past 4 years.[17] We therefore estimate for purposes of this PRA extension that a de minimus number of new broker-dealers will register with the Commission over the next three years and therefore become subject to the broker-dealer provision in Rule 201(c) and the riskless principal provision in Rule 201(d)(6). Based on this projection, we anticipate only de minimus additional expenses over the next three years for newly

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14 In arriving at an estimate of 1,249,389,000 "short exempt" orders during 2018, we estimated 29.5million "short exempt" transactions, and utilized a 2.36% trade-to-order volume ratio for stocks as discussed on our Market Structure website (see https://www.sec.gov/marketstructure/datavis/ma_overview.html#.XT9ixkxFy71). This figure was calculated as follows: 29,485,583 "short exempt" transactions/2.36% trade-to-order volume ratio = 1,249,389,000 "short exempt" orders.

15 We base this estimate of 160 hours on the estimated burden hours we believe it will take a non-SRO trading center (which includes broker-dealers) to develop similarly required policies and procedures, since the policies and procedures required under the broker-dealer provision or the riskless principal exception will be similar to those required for non-SRO trading centers in complying with paragraph (b) of Rule 201. *See* Regulation NMS Adopting Release, 70 FR 37496; *see also* Adopting Release, 75 FR at 11286.

16 Based on experience and the estimates provided in connection with Regulation NMS, we anticipate that of the 160 hours we estimate will be spent to establish policies and procedures, 37 hours will be spent by legal personnel, 77 hours will be spent by compliance personnel, 23 hours will be spent by information technology personnel and 23 hours will be spent by business operations personnel of the broker-dealer.

17 The number of broker-dealers registered with the Commission has declined by approximately 11% over the past 4 years; from 4,299 (as of January 1, 2015), to 4,162 (as of January 1, 2016), to 4,044 (as of January 1, 2017), to 3,904 (as of January 1, 2018), to 3,805 (as of January 1, 2019).

registered broker-dealers to establish policies and procedures required under the broker-dealer provision in Rule 201(c) and the riskless principal provision in Rule 201(d)(6).

Although the exact nature and extent of the required policies and procedures that a broker-dealer must have under the broker-dealer or the riskless principal provisions vary depending upon the nature of the broker-dealer (*e.g.*, full service broker-dealer vs. market maker), we estimate that it takes, on average, a broker-dealer approximately two hours per month of internal legal time and three hours of internal compliance time to ensure that its written policies and procedures are up-to-date and remain in compliance with Rule 201(c) or 201(d)(6), or a total of 60 hours annually per respondent.[18] In addition, we estimate that, on average, it takes a broker-dealer approximately 16 hours per month of on-going compliance time, 8 hours per month of on-going information technology time, and 4 hours per month of on-going legal time associated with on-going monitoring and surveillance for and enforcement of trading in compliance with Rule 201, or a total of 336 hours annually per respondent.[19] Thus, we estimate a total of 1,506,780 annual burden hours for all broker-dealers to ensure that their written policies and procedures are up-to-date and remain in compliance with Rule 201(c) or 201(d)(6) and for on-going monitoring and surveillance for and enforcement of trading in compliance with Rule 201.[20]

iii. <u>Marking Requirements</u>

Rule 200(g) provides a marking requirement of "short exempt." In particular, if the broker-dealer chooses to rely on its own determination that it is submitting the short sale order to the trading center at a price that is above the current national best bid at the time of submission or to rely on an exception specified in the Rule, it must mark the order as "short exempt." We note that it has been approximately nine years since Rule 200(g) was amended to include the "short exempt" marking requirement, and believe that broker-dealers have the necessary systems and processes in place to comply with the marking requirements of Rule 200(g). We believe that the time necessary for a broker-dealer to mark an order "short exempt" is the same as it is to mark an order "long" or "short" pursuant to Rule 200(g), and consistent with the prior PRA extension, we

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18 This figure was calculated as follows: (2 legal hours x 12 months) + (3 compliance hours x 12 months). As discussed above, this burden estimate of 60 hours is based on experience and what was estimated for a Regulation NMS respondent to ensure that its written policies and procedures were up-to-date and remained in compliance.

19 This figure was calculated as follows: (16 compliance hours x 12 months) + (8 information technology hours x 12 months) + (4 legal hours x 12 months) = 336 hours annually per respondent. As discussed above, this burden estimate of 336 hours is based on experience and what was estimated for Regulation NMS for similarly required on-going monitoring and surveillance for and enforcement of trading in compliance with that regulation's policies and procedures requirement.

20 This figure was calculated as follows: (60 hours x 3,805 respondents) + (336 hours x 3,805 respondents) = 1,506,780 hours annually for all respondents.

conservatively estimate that order marking takes approximately .000139 hours (.5 seconds) to complete.[21]

For purposes of this PRA extension, we estimate that all of the approximately 3,805 registered broker-dealers will sell shares marked "short exempt." For purposes of this PRA extension, as noted above, the Commission staff estimates that there were approximately 29.5 million "short exempt" transactions during 2018. This is an average of approximately 7,749 annual responses by each respondent.[22] Thus, with regard to those "short exempt" transactions, our estimate for the paperwork compliance for the "short exempt" marking requirement of Rule 200(g) for each broker-dealer is approximately 1.07 burden hours.[23] The total estimated annual hour burden is approximately 4,071 burden hours.[24]

The table below summarizes the estimates of the total hourly burden.

Collection of Information	Type of Burden	Total Number of Respondents	Total Number of Responses Per Year	Burden Per Response Per Year Per Respondent (Hours)	Total Annualized Burden Per Year Per Respondent (Hours)	Total Reporting Burden For All Respondents (Hours)
Establish Policies & Procedures (SRO trading centers)	Recordkeeping	1	1	220	220	220
Establish Policies & Procedures (non-SRO trading centers)	Recordkeeping	10	1	160	160	1,600
On-going Compliance and Surveillance to Ensure that Policies and Procedures are in Compliance with Rule 201 (trading centers)	Recordkeeping	275	1	396	396	108,900
On-going Compliance and Surveillance to Ensure that Policies and Procedures are in Compliance with Rule 201 (broker-dealers)	Recordkeeping	3,805	1	396	396	1,506,780
"Short Exempt" Order Marking	Recordkeeping	3,805	1	1.07	1.07	4,071

21 This estimate is based on the same time estimate for marking sell orders "long" or "short" used upon adoption of Rule 200(g) under Regulation SHO. *See* Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008, 48023, n.140 (Aug. 6, 2004) ("2004 Regulation SHO Adopting Release"); *see also* Exchange Act Release No. 48709 (Oct. 28, 2003), 68 FR 62972, 63000, n.232 (Nov. 6, 2003).

22 This figure was calculated as follows: 29.5 million "short exempt" transactions divided by 3,805 registered broker-dealers.

23 This figure was calculated as follows: 7,749 "short exempt" transactions multiplied by 0.000139 hours.

24 This figure was calculated as follows: 3,805 registered broker-dealers multiplied by 1.07 hours.

Totals						1,621,571

13. Cost to Respondents

The total cost for the rules for all respondents is $220,000 annually. This burden is broken down by collection of information below.

i. Policies and Procedures Requirement under Rule 201

We expect that SRO and non-SRO respondents incur one-time external costs for outsourced legal services. While we recognize that the amount of legal outsourcing utilized to help establish written policies and procedures varies widely from entity to entity, we estimate that on average, each trading center outsources 50 hours of legal time in order to establish policies and procedures in accordance with Rule 201.[25] As noted above, we estimate for purposes of this PRA extension that approximately 3 new SRO trading centers and approximately 30 new non-SRO trading centers will register with the Commission over the next three years and therefore become subject to the policies and procedures requirement under Rule 201. Based on these figures, we estimate that it will take trading centers a total of approximately 1,650 hours, or 550 hours amortized over three years, to establish policies and procedures in accordance with the provisions of Rule 201.[26] Thus, we estimate a one-time total external cost of approximately $660,000 for both SRO and non-SRO trading centers resulting from outsourced legal work, or approximately $220,000 amortized over three years.[27]

ii. Policies and Procedures Requirements under the Broker-Dealer and Riskless Principal Provisions

In addition, we expect that broker-dealers incur one-time external costs for outsourced legal services. While we recognize that the amount of legal outsourcing utilized to help establish written policies and procedures varies widely from entity to entity, we estimate that on average, each broker-dealer outsources 50 hours[28] of legal time in order to establish policies and

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25 As discussed above, we base our burden estimate of 50 hours of outsourced legal time on the burden estimate used for Regulation NMS because the policies and procedures developed in connection with that Regulation's Order Protection Rule are in many ways similar to what a trading center will need to do to comply with Rule 201. *See* Regulation NMS Adopting Release, 70 FR 37496.

26 These figures were calculated as follows: (50 legal hours x 3 SRO trading centers) + (50 legal hours x 30 non-SRO trading centers) = 1,650 hours. 1,650/3 = 550 hours.

27 This figure was calculated as follows: 50 legal hours x $400 x 3 SRO trading centers = $60,000 for SRO trading centers. 50 legal hours x $400 x 30 non-SRO trading centers = $600,000 for non-SRO trading centers. $60,000 + $600,000 = $660,000, or amortized as $660,000/3 = $220,000. Based on industry sources, the Staff estimates that the average hourly rate for outsourced legal services in the securities industry is $400.

28 As discussed above, we base our burden estimate of 50 hours of outsourced legal time on the burden estimate used for Regulation NMS because the policies and procedures developed in connection with that Regulation's Order Protection Rule are in many ways similar to what a broker-dealer will need to do to comply with the policies and procedures required under the broker-dealer provision and the riskless principal exception of Rule 201. *See* Regulation NMS Adopting Release, 70 FR 37496; *see also* Adopting Release, 75 FR at 11286.

procedures in accordance with the broker-dealer provision in Rule 201(c) and the riskless principal provision in Rule 201(d)(6). As noted above, the number of broker-dealers registered with the Commission has declined by approximately 11% over the past 4 years. We therefore estimate for purposes of this PRA extension that a de minimus number of new broker-dealers will register with the Commission over the next three years and therefore become subject to the broker-dealer provision in Rule 201(c) and the riskless principal provision in Rule 201(d)(6). Based on this projection, we anticipate only de minimus additional expenses over the next three years for newly registered broker-dealers to establish policies and procedures in accordance with the broker-dealer and riskless principal provisions of Rule 201.

iii. Marking Requirements

In light of the fact that approximately nine years have passed since Rule 200(g) was amended to include a "short exempt" marking requirement, we believe that any broker-dealer currently registered with the Commission would already have the necessary systems in place to comply with the current marking requirements of Rule 200(g), including Rule 200(g)(2). Thus, for currently registered broker-dealers, we believe that there should not be any outstanding costly systems modifications as were contemplated in the prior PRA extension. For any broker-dealer that would register with the Commission over the next three years,[29] we believe that compliance with Rule 200(g), including Rule 200(g)(2), would be addressed as part of the broker-dealer's broader system implementation, and not a separately identifiable cost center as contemplated in the prior PRA extension. For these reasons, for purposes of this PRA extension, we estimate no, or at most, a de minimus, external cost burden associated with the "short exempt" marking requirement over the next three years.

The table below summarizes the estimates of the total cost burden.

Collection of Information	Type of Burden	Total Number of Respondents	Total Number of Responses Per Year	Cost Per Response Per Year Per Respondent ($USD)	Total Annualized Cost Per Year Per Respondent ($USD)	Total Reporting Cost For All Respondents ($USD)
Establish Policies & Procedures (SRO trading centers)	Recordkeeping	1	1	20,000	20,000	20,000
Establish Policies & Procedures (non-SRO trading centers)	Recordkeeping	10	1	20,000	20,000	200,000
Total						220,000

29 As noted above, we estimate for purposes of this PRA extension that a de minimus number of new broker-dealers will register with the Commission over the next three years.

14. Costs to Federal Government

Not applicable.

15. Changes in Burden

The estimated time burden associated with new non-SRO trading centers establishing, maintaining, and enforcing written policies and procedures increased from 800 hours per year to 1,600 hours per year because the estimated number of such respondents increased from 5 per year to 10 per year. The estimated time burden of all trading centers assuring that their written policies and procedures are up-to-date decreased from125,928 hours per year to 108,900 hours per year because the estimated number of such respondents decreased from 318 to 275. The estimated time burden of all broker-dealers assuring that their written policies and procedures are up-to-date decreased from 1,648,152 hours per year to 1,506,780 hours per year because the estimated number of such respondents decreased from 4,162 to 3,805. The estimated time burden associated with the broker-dealer marking requirements has decreased because the estimated number of such respondents decreased from 4,162 to 3,805 and the estimated number of short exempt transactions per respondent decreased. In addition, the estimated time burden for the marking requirements decreased because it was incorrectly calculated in the prior PRA extension.

The estimated cost burden associated with new non-SRO trading centers establishing, maintaining, and enforcing written policies and procedures increased from $100,000 per year to $200,000 hours per year because the estimated number of such respondents increased from 5 per year to 10 per year.

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.