

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 17a-4
OMB Control No. 3235-0279

A. JUSTIFICATION

1. Information Collection Necessity

All brokers and dealers in the ordinary course of their businesses need to maintain certain books and records reflecting, among other things, income and expenses, assets and liabilities, daily trading activity, and the status of customer and firm accounts. These books and records are, for the most part, standard and would be kept by any prudent individual engaging in a securities business.

The Commission is statutorily authorized by Sections 17(a)¹ and 23(a)² of the Securities Exchange Act of 1934 (“Exchange Act”) to promulgate rules and regulations regarding the maintenance and preservation of books and records of exchange members, brokers, and dealers (“broker-dealers”). Section 17(a)(1) provides in pertinent part:

“[all members of a national securities exchange and registered brokers and dealers] shall make and keep for prescribed periods such records...as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the [Exchange Act].”

To standardize recordkeeping practices throughout the industry, the Commission, in 1940, adopted Rules 17a-3 and 17a-4 (one of the “Books and Records Rules”),³ which codified and specified minimum standards with respect to business records that broker-dealers must create and maintain. Rule 17a-3 requires exchange members, brokers and dealers to make and keep current certain records relating to a broker’s or dealer’s financial condition and operations. Rule 17a-4 requires broker-dealers to preserve, for prescribed periods of time, certain records required to be created under Rule 17a-3 and certain other Commission rules. In addition, Rule 17a-4 requires broker-dealers to preserve other records that may be created or received by the broker-dealer in the ordinary course of its business for prescribed periods of time.

2. Information Collection Purpose and Use

The purpose of requiring that broker-dealers maintain the records specified in Rule 17a-4 is to help ensure that examiners and other representatives of the Commission, State securities regulatory authorities, and self-regulatory organizations (“SROs”) have access to the information and documents necessary to determine whether broker-dealers are in compliance with the Commission’s antifraud and anti-manipulation rules, financial responsibility program, and other

¹ 15 U.S.C. 78q(a).

² 15 U.S.C. 78w(a).

³ 17 CFR 240.17a-3 and 17 CFR 240.17a-4.

Commission, SRO, and State laws, rules, and regulations. Without Rule 17a-4, it would be impossible for the Commission to determine whether a broker-dealer that chose not to preserve records was in compliance with these rules. Such a situation would not be in the public interest and would be detrimental to investors and the financial community as a whole.

3. Consideration Given to Information Technology

Rule 17a-4 specifically allows brokers and dealers to use electronic storage media to comply with the record-keeping requirements under the Securities and Exchange Act of 1934. In fact, because it simply sets minimum standards for the electronic storage media employed, Rule 17a-4 does not limit broker-dealers to using forms of electronic storage which may become obsolete as new technology is developed. The Commission believes that improvements in telecommunications and data processing technology may reduce any burdens that result from Rule 17a-4.

4. Duplication

There is no duplication.

5. Effects on Small Entities

The number and complexity of records required to be preserved by Rule 17a-4 vary proportionately with the volume and complexity of the broker-dealer's business. Further, broker-dealers may choose which media (hard-copy, microfiche, electronic storage, etc.) is most appropriate given their size and the type of business they do. The books and records required under Rule 17a-4 are normally retained by small broker-dealers.

6. Consequences of Not Conducting Collection

Rule 17a-4 is a record preservation rule. Without Rule 17a-4, it would be impossible for the Commission to determine whether a broker-dealer that chose not to preserve records was in compliance with the Commission's antifraud and anti-manipulation rules, financial responsibility program, and other Commission, SRO, and State laws, rules, and regulations. Such a situation would not be in the public interest and would be detrimental to investors and the financial community as a whole.

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

Certain provisions of Rule 17a-4 require respondents to retain records for more than three years. Specifically, Rule 17a-4(a) requires broker-dealers to preserve for a period of not less than six years:

1. Purchase and sales blotters, securities and cash receipts, and disbursements blotters;
2. Ledgers of a broker-dealer's assets, liabilities, income and expense, and capital accounts;
3. Customer account ledgers;
4. Securities position reports;

5. Lists of office employees able to explain records to examiners; and
6. A record of persons responsible for establishing policies and procedures designed to ensure that the broker-dealer is compliant with applicable rules and regulations.

After the closing of any customer's account, broker-dealers must preserve for at least six years any account cards or records which relate to the terms and conditions of opening and maintaining the account. Broker-dealers are required to maintain and preserve in an easily accessible place:

1. Employment records of associated persons until at least three years after the employment has terminated;
2. Processed fingerprint cards and other related information until at least three years after the termination of employment or association;
3. All records required pursuant to paragraph (a)(15) of Rule 17a-3 for the life of the enterprise;
4. All account record information required pursuant to Rule 17a-3(a)(17) and Rule 17a-3(a)(35) until at least six years after the earlier of the date the account was closed or the date on which the information was replaced or updated;
5. All records required pursuant to Rule 17a-3(a)(24) and a copy of each Form CRS, until at least six years after such record or Form CRS is created; and
6. Each compliance, supervisory, and procedures manual, including any updates, modifications, and revisions to the manual, describing the policies and practices of the member, broker, or dealer with respect to compliance with applicable laws and rules, and supervision of the activities of each natural person associated with the member, broker, or dealer until three years after the termination of the use of the manual.

In addition, Rule 17a-4(d) requires that a broker-dealer maintain specified organizational documents for the life of the enterprise and any successor enterprise.

These extended retention periods are necessary with respect to the records itemized above in order to provide regulators with sufficient time to conduct comprehensive inspections and investigations. Due to budget constraints, regulators only examine broker-dealers and office locations periodically. Further, certain of these documents do not become obsolete (*e.g.*, organizational documents).

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

The Commission did not provide any payment or gift to respondents.

10. Confidentiality

The records required to be maintained by Rule 17a-4 are available only to the examination staffs of the Commission, State regulatory authorities, and the SROs. Subject to the

provisions of the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”) and the Commission’s rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission generally does not publish or make available information contained in reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

11. Sensitive Questions

Rule 17a-4 requires that broker-dealers maintain records as prescribed by Commission rules; however, this information collection does not collect personally identifiable information (“PII”). No information of a sensitive nature, including social security numbers, will be required under this collection of information. 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. Information Collection Burden

Rule 17a-4 establishes the records that must be preserved by all broker-dealers, as well as records that must be preserved only by certain broker-dealers. All of these burdens are recordkeeping burdens.

Records Preserved by All Broker-Dealers

The Commission estimates that, on average, each broker-dealer spends 254 hours each year to ensure that it preserves the records Rule 17a-4 requires all broker-dealers to preserve. As of December 31, 2018, there were 3,764 broker-dealers registered with the Commission. Therefore, the Commission estimates that all brokers will spend a combined total of 956,056 hours each year ((3,764 broker-dealers x 254 hours) to comply with the Rule 17a-4 requirements applicable to all broker-dealers.

Rule 17a-4(b)(11)

Paragraph (b)(11) of Rule 17a-4 requires any broker-dealer that sponsors an internal broker-dealer system to maintain certain records relating to such system for at least three years, the first two years in an easily accessible place.⁴ The Commission estimates that paragraph (b)(11) of Rule 17a-4 imposes an annual burden of 3 hours per year to maintain the requisite records. The Commission

⁴ An internal broker-dealer system is any facility that provides a mechanism for collecting, receiving, disseminating, or displaying system orders and facilitating agreement to the basic terms of a purchase or sale of a security between a customer and the sponsor, but excludes a national securities exchange, an exchange exempt from registration based on limited volume, and an alternative trading system. See 17 C.F.R. 240.17a-3(a)(16)(ii)(A). Because an internal broker-dealer system is not included in the definition of an exchange, it is regulated under the broker-dealer regulatory scheme.

estimates that there are approximately 200 internal broker-dealer systems,⁵ resulting in an annual recordkeeping burden of 600 hours.⁶

Rule 17a-4(e)(5) and Rule 17a-4(e)(10)

In June 2019, the Commission amended Rule 17a-4 by revising paragraph (e)(5) and by adding new paragraph (e)(10). These revisions to the collection of information were approved by OMB on October 3, 2019. Because these revisions were approved so recently, we do not have any changes to the estimated burdens.

Based on data obtained from Form BR, the Commission estimates that approximately 73.5% of the 3,764 broker-dealers registered with the Commission as of December 31, 2018, or 2,766 broker-dealers, have retail customers and therefore are subject to the requirements of Rule 17a-4 (e)(5) and Rule 17a-4(e)(10).⁷

Rule 17a-4(e)(5) requires broker-dealers to retain all records of the information collected from or provided to each retail customer for at least six years after the earlier of the date the account was closed or the date on which the information was last replaced or updated.⁸ Rule 17a-4(e)(10) requires broker-dealers subject to Form CRS to maintain each record made pursuant to Rule 17a-3(a)(24) for at least six years.

Based on the assumption that broker-dealers will rely on existing infrastructures to satisfy the recordkeeping obligations of Rule 17a-4(e)(5), the Commission estimates the one-time initial burden for broker-dealers to add new documents or modify existing documents to the broker-dealer's existing retention system would be 1,639 hours per broker-dealer or 4,533,476 burden hours for all broker-dealers⁹ (put another way, each broker-dealer would incur the

⁵ The Commission believes that most over-the-counter (“OTC”) market makers maintain an internal broker-dealer system. In 2018, the Commission estimated that there are approximately 200 OTC market makers. See *Disclosure of Order Handling Information*, Exchange Act Release No. 84528 (Nov. 2, 2018), 83 FR 58338 (Nov. 19, 2018).

⁶ 3 hours x 200 internal broker-dealer systems = 600 hours.

⁷ On June 5, 2019, the Commission adopted Rule 151-1 under the Exchange Act establishing a standard of conduct for broker-dealers and natural persons who are associated persons of a broker-dealer when making a recommendation of any securities transaction or investment strategy involving securities to a retail customer (“Regulation Best Interest”). See Securities Exchange Act Release No. 86031 (June 5, 2019), 84 FR 33318 (July 12, 2019) (“Regulation Best Interest Adopting Release”). At the same time, the Commission adopted Exchange Act Rule 17a-14 (CFR 240.17a-14) and Form CRS (17 CFR 249.640) under the Exchange Act. In connection with these rulemakings, the Commission amended Rule 17a-4 by revising paragraph (e)(5) and adding paragraph (e)(10).

⁸ The Commission believes the following records will likely need to be retained by broker-dealers under Rule 17a-4(e)(5): (1) existing account disclosure documents; (2) comprehensive fee schedules; (3) disclosures identifying material conflicts; and (4) memorialized oral disclosures under the circumstances outlined in Section II.C.1 of the Regulation Best Interest Adopting Release, *Oral Disclosure or Disclosure After a Recommendation*.

burden for each of the 36,876 retail customer accounts)¹⁰ assuming a broker-dealer would need to upload or file each of the four account documents discussed above for each retail customer account.¹¹ Furthermore, the Commission estimates that the approximate ongoing burden associated with the recordkeeping requirement of Rule 17a-4(e)(5) is 1,622.555 hours per broker-dealer or 4,487,987 burden hours per year.¹²

Rule 17a-4(e)(10) requires broker-dealers subject to Form CRS to maintain each record made pursuant to Rule 17a-3(a)(24) for at least six years. The Commission estimates this increases the burden for each such broker-dealer by 0.10 hours, or an estimated aggregate burden of 277 hours on an annual basis.¹³ This estimate results in a total annual estimated recordkeeping burden for Form CRS records for all BDs of 277 hours.

The estimated burdens associated with Rule 17a-4 are summarized in the following table:

Name of Information Collection	Summary of Hourly Burdens					
	Type of Burden	Number of Respondents	Annual Responses per Respondent	Hourly Burden per Response	Annual Burden Per Entity	Annual Burden for all Respondents
Rule 17a-4	Recordkeeping	3,764	1	254	254	956,056
Rule 17a-4(b)(11)	Recordkeeping	200	1	3	3	600
Rule 17a-4(e)(5) - Initial One-Time	Recordkeeping	2,766	244,627	0.0067	1639.0009 ¹⁴	4,533,476
Rule 17a-4(e)(5) - Ongoing	Recordkeeping	2,766	147,505	0.011	1622.555	4,487,987
Rule 17a-4(e)(10)	Recordkeeping	2,766	1	0.1	0.1	277
TOTAL						9,979,627

The Commission believes that requirements resulting from Rule 17a-4 would be performed by individuals in a broker-dealer's compliance department. A Compliance Clerk

⁹ This estimate is based on the following calculation: 2,766 broker-dealers x 1,639.00009 hours per broker-dealer = 4,533,476 burden hours for all broker-dealers.

¹⁰ This estimate is based on the following calculation: (102 million retail customer accounts)/(2766 broker-dealers) = 36,876 retail customer accounts per broker-dealer.

¹¹ This estimate is based on the following calculation: (4 documents per customer account) x (102 million retail customer accounts) x (2 minutes per document) / 60 minutes = 13,600,000 aggregate burden hours.

¹² This estimate is based on the following calculation: (2,766 broker-dealers) x (1,622.555 hours per broker-dealer) = 4,489,218 burden hours for all broker-dealers.

¹³ 2,766 broker-dealers x 0.1 hours = 277 hours in aggregate.

¹⁴ This estimate is based on the following calculation: (4 documents per customer account) x (102 million retail customer accounts) x (2 minutes per document) / 60 minutes = 13,600,000 aggregate burden hours. (13,600,000/2766 broker-dealers) / 3 = 1,639 hours per year.

earns an average of \$70 per hour,¹⁵ resulting in a total internal cost of compliance of approximately \$699 million $((956,056 \times \$70) + (600 \times \$70) + (4,533,476 \times \$70) + (4,489,218 \times \$70) + (277 \times \$70))$.

13. Costs to Respondents

Based on conversations with members of the securities industry and the Commission's experience in the area, we estimate that the average broker-dealer spends approximately \$5,000 each year to store documents required to be retained under Rule 17a-4. Costs include the cost of physical space, computer hardware and software, etc., which vary widely depending on the size of the broker-dealer and the type of storage media employed. The Commission estimates that the annual reporting and recordkeeping cost burden is \$18,820,000. This cost is calculated by the number of active, registered broker-dealers multiplied by the recordkeeping cost for each respondent (3,764 active, registered broker-dealers x \$5,000). This is a recordkeeping cost.

Summary of Cost Burdens				
Name of Information Collection	Type of Burden	Number of Respondents	Annual Cost Burden per Respondent	Annual Burden for all Respondents
Rule 17a-4 – Document Storage Costs	Recordkeeping	3,764	\$5,000	\$18,820,000
TOTAL				\$18,820,000

14. Costs to the Federal Government

The federal government does not incur a cost for this collection of information since it relates to a recordkeeping burden for the respondents.

15. Changes in Burden

The burden increased largely because of the adoption of Regulation Best Interest and Rule 17a-14, which added the new requirements in Rule 17a-4(e)(5) and Rule 17a-4(e)(10), adding 9,021,740 burden hours. The number of registered broker-dealers has declined from 4,104 to 3,764, reducing the overall burden for all broker-dealers as a result. Additionally, the estimated number of internal broker-dealer systems has increased from 150 to 200, which has increased the burden hours associated with internal broker-dealer systems. The changes in the estimated burdens are summarized in the table below:

Changes in Hourly Burden

¹⁵ This figure is based on SIFMA's *Office Salaries in the Securities Industry 2013*, modified by Commission staff to account for inflation and an 1,800-hour work-year multiplied by 2.93 to account for bonuses, firm size, employee benefits, and overhead.

Name of Information Collection	Annual Industry Burden	Annual Industry Burden Previously Approved	Change in Burden	Reason for Change
Rule 17a-4	956,056	1,042,416	(86,360)	Reduction in the number of registered broker-dealers from 4,104 to 3,764
Rule 17a-4(b)(11)	600	450	150	Increase in the number of broker-dealer systems from 150 to 200
Rule 17a-4(e)(5) - Initial One-Time	4,533,476	4,533,476	0	No change
Rule 17a-4(e)(5) - Ongoing	4,487,987	4,487,987	0	No change
Rule 17a-4(e)(10)	277	277	0	No change

Changes in Hourly Cost				
Name of Information Collection	Annual Industry Cost	Annual Industry Cost Previously Reviewed	Change in Cost	Reason for Change
Rule 17a-4	\$18,820,000	\$20,520,000	(\$1,700,000)	Reduction in the number of registered broker-dealers from 4,104 to 3,764

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. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.