

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission relating to the
Modification of Proposed Rule 18a-5
3235-0745

This submission is being made pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 et seq.

A. JUSTIFICATION

1. Necessity of Information Collection

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”) into law.¹ Section 764 of the Dodd-Frank Act added section 15F to the Securities Exchange Act of 1934 (the “Exchange Act”), which provides that the Commission shall adopt rules governing reporting and recordkeeping for security-based swap dealers (“SBSDs”) and major security-based swap participants (“MSBSPs”).²

Accordingly, on April 17, 2014, the Commission proposed amendments to its recordkeeping and reporting rules for broker-dealers as well as new recordkeeping and reporting rules for SBSDs and MSBSPs (the “SBS Recordkeeping Release”).³ More specifically, proposed new Exchange Act Rule 18a-5 (in conjunction with the proposed new Exchange Act Rule 18a-6) was proposed to establish recordkeeping requirements applicable to stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs.⁴ Proposed Rule 18a-5 was modeled on Exchange Act Rule 17a-3, which applies to broker-dealers.

Proposed Rule 18a-5 would establish a number of new collections of information, as summarized in the table below.

	Non-model stand-alone SBSDs	ANC stand-alone SBSDs	Bank SBSDs	Stand-alone MSBSPs
Trade blotters	Rule 18a-5(a)(1)	Rule 18a-5(a)(1)	Rule 18a-5(b)(1)	Rule 18a-5(a)(1)
General ledger	Rule 18a-5(a)(2)	Rule 18a-5(a)(2)		Rule 18a-5(a)(2)
Ledgers for customer and non-customer accounts	Rule 18a-5(a)(3)	Rule 18a-5(a)(3)	Rule 18a-5(b)(2)	Rule 18a-5(a)(3)
Stock record	Rule 18a-5(a)(4)	Rule 18a-5(a)(4)	Rule 18a-5(b)(3)	Rule 18a-5(a)(4)
Memoranda of brokerage orders			Rule 18a-5(b)(4)	
Memoranda of proprietary orders	Rule 18a-5(a)(5)	Rule 18a-5(a)(5)	Rule 18a-5(b)(5)	Rule 18a-5(a)(5)

¹ See Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111-203, 124 Stat. 1376 (2010).

² See 15 U.S.C. 78o-10(f)(2).

³ See Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Capital Rule for Certain Security-Based Swap Dealers; Proposed Rules, Exchange Act Release No. 71958 (Apr. 17, 2014), 79 FR 25193 (May 2, 2014), available at <https://www.govinfo.gov/content/pkg/FR-2014-05-02/pdf/2014-09108.pdf>.

⁴ *Id.*

	Non-model stand-alone SBSDs	ANC stand-alone SBSDs	Bank SBSDs	Stand-alone MSBSPs
Confirmations	Rule 18a-5(a)(6)	Rule 18a-5(a)(6)	Rule 18a-5(b)(6)	Rule 18a-5(a)(6)
Accountholder information	Rule 18a-5(a)(7)	Rule 18a-5(a)(7)	Rule 18a-5(b)(7)	Rule 18a-5(a)(7)
Options positions	Rule 18a-5(a)(8)	Rule 18a-5(a)(8)		Rule 18a-5(a)(8)
Trial balances and computation of net capital	Rule 18a-5(a)(9)	Rule 18a-5(a)(9)		Rule 18a-5(a)(9)
Associated person's employment application	Rule 18a-5(a)(10)	Rule 18a-5(a)(10)	Rule 18a-5(b)(8)	Rule 18a-5(a)(10)
Liquidity stress test ⁵		Rule 18a-5(a)(11)		
Account equity and margin calculations under proposed Rule 18a-3	Rule 18a-5(a)(12)	Rule 18a-5(a)(12)		Rule 18a-5(a)(12)
Possession or control requirements under proposed Rule 18a-4	Rule 18a-5(a)(13)	Rule 18a-5(a)(13)	Rule 18a-5(b)(9)	
Customer reserve requirements under proposed Rule 18a-4	Rule 18a-5(a)(14)	Rule 18a-5(a)(14)	Rule 18a-5(b)(10)	
Unverified transactions	Rule 18a-5(a)(15)	Rule 18a-5(a)(15)	Rule 18a-5(b)(11)	Rule 18a-5(a)(15)
Political contributions	Rule 18a-5(a)(16)	Rule 18a-5(a)(16)	Rule 18a-5(b)(12)	
Compliance with external business conduct requirements	Rule 18a-5(a)(17)	Rule 18a-5(a)(17)	Rule 18a-5(b)(13)	Rule 18a-5(a)(17)

A PRA for these proposed amendments to the Commission's broker-dealer recordkeeping and reporting rules and new recordkeeping and reporting rules for SBSDs and MSBSPs ("the 2014 Proposed Recordkeeping Rules") was submitted to OMB for review in 2016, IRC Reference Number 201606-3235-012. As can be seen from the chart above, the IRC for the 2014 Proposed Recordkeeping and Reporting Rules, this IRC included a combination of many separate burdens arising from the requirements in different paragraphs of Rule 18a-5.

On May 10, 2019, prior to the adoption of the 2014 Proposed Recordkeeping Rules, the Commission proposed, among other things,⁶ to modify certain of the collections of information in proposed rule 18a-5 by adding exceptions to the associated person's employment application requirements contained in proposed paragraphs 18a-5(a)(10) and (b)(8) ("the 2019 Proposed Modifications"). The 2019 Proposed Modifications would reduce the paperwork burdens originally associated with paragraphs 18a-5(a)(10) and (b)(8); they would not affect the paperwork burdens associated with other 18a-5 paragraphs.

2. Purpose and Use of the Information Collection

The purpose of requiring stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs to create the records specified in Rule 18a-5 is to enhance regulators' ability to

⁵ The capital rules for SBSDs and MSBSPs, which were adopted on July 21, 2019, do not include liquidity stress tests, so it is likely that Rule 18a-5, when it is adopted, will not include a requirement to maintain records regarding liquidity stress tests. See Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital and Segregation Requirements for Broker-Dealers, Exchange Act Release No. 86175 (Jul. 21, 2019) (the "Capital/Margin Adopting Release"), available at <https://www.sec.gov/rules/final/2019/34-86175.pdf>.

⁶ See Proposed Rule Amendments and Guidance Addressing Cross-Border Application of Certain Security-Based Swap Requirements, Exchange Act Release No. 85823 (May 10, 2019), 84 FR 24206 (May 24, 2019), available at <https://www.govinfo.gov/content/pkg/FR-2019-05-24/pdf/2019-10016.pdf> ("the 2019 Cross-Border Proposing Release").

protect investors. These records and the information contained therein are used by examiners and other representatives of the Commission to determine whether stand-alone SBSBs, stand-alone MSBs, bank SBSBs, and bank MSBs are in compliance with the Commission's anti-fraud and anti-manipulation rules, financial responsibility program, and other laws, rules, and regulations. If stand-alone SBSBs, stand-alone MSBs, bank SBSBs, and bank MSBs were not required to create these records, examiners would be unable to conduct effective and efficient examinations to determine whether stand-alone SBSBs, stand-alone MSBs, bank SBSBs, and bank MSBs were complying with relevant laws, rules, and regulations.

3. Consideration Given to Information Technology

The Commission believes that improvements in telecommunications and data processing technology may reduce any burdens that result from Rule 18a-5. Stand-alone SBSBs, stand-alone MSBs, bank SBSBs, and bank MSBs are not prevented from using computers or other mechanical devices to generate the records required under Rule 18a-5. If such records are stored electronically, they must be preserved exclusively in a non-readable, non-writeable format.⁷

4. Duplication

We believe that most stand-alone SBSBs, stand-alone MSBs, bank SBSBs, and bank MSBs already voluntarily create records on their associated persons to facilitate employment decisions and ongoing oversight of employees. While paragraphs (a)(10) and (b)(8) of Rule 18a-5 may require that stand-alone SBSBs, stand-alone MSBs, bank SBSBs, and bank MSBs collect additional data points on associated persons, they do not require these entities to create or maintain a duplicate record distinct from the associated person records they already create and maintain.

The modifications to paragraphs (a)(10) and (b)(8) of Rule 18a-5 included in the 2019 Proposed Modifications would add exemptions from the requirement to collect information on associated persons, and should reduce the paperwork burdens originally associated with those paragraphs originally proposed in the 2014 Proposed Recordkeeping Rules.

Thus, no duplication of such information is apparent.

5. Effect on Small Entities

Based on feedback from industry participants about the security-based swap market, entities that would qualify as SBSBs or MSBs would likely exceed the thresholds defining "small entities." Thus, it is unlikely that the requirements under proposed Rule 18a-5, and the proposed modifications thereto, would have a significant economic impact on a small entity.

⁷ See 17 CFR 240.18a-6(e)(2)(ii)(A).

6. Consequences of Not Conducting Collection

The information required to be collected and recorded under Rule 18a-5 allows the Commission to determine whether stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs are in compliance with Commission anti-fraud and anti-manipulation rules, financial responsibility rules, and other rules and regulations. If a stand-alone SBSD, stand-alone MSBSP, bank SBSD, or bank MSBSP does not make these records, or if it makes these records less frequently, the level of investor protection will be reduced. The records a stand-alone SBSD, stand-alone MSBSP, bank SBSD, or bank MSBSP is required to make under Rule 18a-5 are, for the most part, essential to the successful operation of an SBSD or MSBSP, and failure to make the records on a current basis would likely cause the firm to experience operational difficulties.

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

As originally proposed in the 2014 Proposed Recordkeeping Rules, pursuant to proposed Rule 18a-6, a security-based swap dealer or major security based swap participant would be required to maintain the records it is required to create in accordance with paragraphs (a)(10) and (b)(8) of Rule 18a-5 for more than three years. The modifications to these paragraphs included in the 2019 Proposed Modifications would reduce the recordkeeping burdens associated with these paragraphs, but would not modify the retention periods.

More specifically, proposed Rule 18a-6(d)(1) would require a security-based swap dealer or major security based swap participant to maintain all applications or questionnaires for employment required created in accordance with Rule 18a-5(a)(10) and (b)(8) until at least three years after the associated person's employment and any other connection with the security-based swap entity has terminated.⁸

The extended retention periods included in proposed Rule 18a-6 for these collections of information are necessary to provide regulators with sufficient time to conduct comprehensive inspections and investigations. Due to budget constraints, it is expected that regulators will not examine security-based swap dealers and major security-based swap participants often. Further, it is likely that this information will be continue to be relevant to the firm as long as the person remains associated with the security-based swap entity.

8. Consultations Outside the Agency

The 2014 Proposed Recordkeeping Rules were proposed in 2014, and the Commission solicited public comment on those proposed rules. The Commission received a number of comments on those rules.⁹ As described in the 2019 Cross-Border Proposing Release, the 2019 Proposed Modifications (to proposed Rule 18a-5) were developed in response to certain of those comments.¹⁰

⁸ See SBS Recordkeeping Release, at 25312.

⁹ See <https://www.sec.gov/comments/s7-05-14/s70514.shtml>.

¹⁰ See the 2019 Cross-Border Proposing Release, at 24242.

The Commission has issued a release soliciting comment on, among other things, the modifications to proposed rule 18a-5 and the “collection of information” requirements associated with that Rule.¹¹ A copy of the proposing release titled “Proposed Rule Amendments and Guidance Addressing Cross-Border Application of Certain Security-Based Swap Requirements” is attached. Comments on Commission releases are generally received from registrants, investors, and other market participants. In addition, the Commission and staff participate in ongoing dialogue with representatives of various market participants through public conferences, meetings and informal exchanges. Any comments received on the 2019 Cross-Border Proposing Release (including comments on the 2019 Proposed Modifications) will be posted on the Commission’s public website, and made available through <http://www.sec.gov/rules/proposed.shtml>. The Commission will consider all comments received prior to publishing the final rule, and will explain in any adopting release how the final rule responds to such comments, in accordance with 5 C.F.R. 1320.11(f).

9. Payment or Gift

No payment or gift is provided to respondents.

10. Confidentiality

The collection of information will require respondents to collect and maintain information on their associated persons. This information is not reported to the Commission, but Commission staff may obtain certain of this information as part of its oversight activities (such as during routine inspections or examinations of the entities it regulates, or as part of its Enforcement activities).

Subject to the provisions of the Freedom of Information Act, 5 U.S.C. § 552, 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

The collection of information will require respondents to collect and maintain Personally Identifiable Information (“PII”)¹² on their associated persons. The information collection collects a broad range of PII, including the name, address, social security number, date of birth, prior work history, and criminal history related to an associated person of the Security-Based Swap Participant (SBS). The SBS is required to maintain the information. Upon Commission request, the information collection is manually submitted via mail and email and collected in paper form. The primary retrieval method is firm’s name or an examination

¹¹ See the 2019 Cross-Border Proposing Release.

¹² The term “Personally Identifiable Information” refers to information which can be used to distinguish or trace an individual’s identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc.

identification number and not a personal identifier. Based on the business practice of handling the information collection, the collection does not constitute a system of records under the Privacy Act and does not require a PIA of the E-Government Act of 2002. However, the SEC has privacy administrative, technical, and physical controls in place to protect the PII that the Commission requests. The information collected via email or scanned pdf documents are stored in the shared internal drive on the GSS system that is covered under the GSS update PIA. The GSS PIA, approved on June 3, 2019 is available upon request. Notice to the public of the collection of the information and the agency's handling practices are described in System of Records Notice (SORN) SEC-70 "SEC's Trading and Markets Records." The SEC-70 SORN, published on February 15, 2018, is provided as a supplemental document and is also available at <https://www.sec.gov/privacy>.

12. Burden of Information Collection

As proposed in the 2014 Proposed Recordkeeping Rules, rule 18a-5 was designed to establish recordkeeping requirements applicable to stand-alone SBSs, stand-alone MSBSPs, bank SBSs, and bank MSBSPs,¹³ and was expected to impose both initial and ongoing burdens on these firms.

The 2019 Proposed Modifications, which would modify paragraphs (a)(10) and (b)(8) of proposed Rule 18a-5, would reduce the burdens associated with the rule as originally proposed.¹⁴ Actual recordkeeping requirements are expected to vary depending on the size and complexity of the stand-alone SBS, stand-alone MSBSP, bank SBS, or bank MSBSP, and the amount by which the burdens are reduced by the proposed modifications would depend on the number and location of each firm's associated persons.

In the release titled "Applications by Security-Based Swap Dealers or Major Security-Based Swap Participants for Statutorily Disqualified Associated Persons To Effect or Be Involved in Effecting Security-Based Swaps," the Commission estimated that each security-based swap dealer will employ approximately 420 associated persons that are natural persons and each major security-based swap participant will employ approximately 62 associated persons that are natural persons.¹⁵ The Commission has no data regarding how many associated persons of SBS Entities who are non-U.S. natural persons may: (a) not effect or be involved in effecting security-based swap transactions with or for counterparties that are U.S. persons (other than a security-based swap transaction conducted through a foreign branch of a counterparty that is a

¹³ See SBS Recordkeeping Release.

¹⁴ As stated previously, while the 2019 Proposed Modifications to Rule 18a-5 would reduce the paperwork burdens originally associated with paragraphs (a)(10) and (b)(8), they would not affect the requirements or paperwork burdens associated with other paragraphs contained in 18a-5.

¹⁵ See Applications by Security-Based Swap Dealers or Major Security-Based Swap Participants for Statutorily Disqualified Associated Persons To Effect or Be Involved in Effecting Security-Based Swaps, Exchange Act Release No. 84858 (Dec. 19, 2018), 84 FR 4906 (Feb. 19, 2019). Commission staff also checked with the staff at the National Futures Association regarding an approximate number of associated persons employed by registered swap dealers. NFA staff provided anecdotal information indicating that the number of natural persons that are associated persons of swap dealers is substantially similar to Commission staff estimates. NFA staff further indicated that they believe about half of the total number of natural persons that are associated persons of swap dealers are located in the U.S. and the other half are located in foreign jurisdictions.

U.S. person); (b) effect or be involved in effecting security-based swap transactions with or for counterparties that are U.S. persons, but who may be employed or located in jurisdictions where the receipt of information required by the questionnaire or employment application, or the creation or maintenance of records reflecting that information, would result in a violation of applicable law; or (c) effect or be involved in effecting security-based swap transactions with or for counterparties that are U.S. persons, who are employed or located in jurisdictions where local law would not restrict the receipt, creation or maintenance of information required by the questionnaire or employment application. Given that, the Commission estimates, for purposes of this Paperwork Reduction Act analysis, that non-U.S. associated persons are evenly split into each of these categories.

Stand-Alone SBSDs and Stand-Alone MSBSPs:

As proposed -

Paragraph (a) of Rule 18a-5, as originally proposed, would have required each stand-alone SBSD and stand-alone MSBSP to make and keep current thirteen types of records (including paragraph (a)(10)),¹⁶ and the Commission originally estimated that the initial burden associated with that proposed paragraph would be approximately 260 hours and that the ongoing annual burden would be approximately 325 hours for each firm. This would amount to an initial burden of approximately 20 hours and an ongoing annual burden of approximately 25 hours associated with each of the thirteen types of records for each firm.

The Commission further estimated that 13 respondents (nine stand-alone SBSDs and four stand-alone MSBSPs) would be required to comply with paragraph (a) of proposed Rule 18a-5, resulting in an estimated initial burden of 3,380 hours¹⁷ and ongoing annual burden associated with that proposed rule of 4,225 hours per year (including the first year) for these respondents.¹⁸ Over a three year period, the total estimated industry burden associated with proposed paragraph (a) of Rule 18a-5 would be 16,055 hours,¹⁹ or about 5,352 hours per year when annualized.²⁰

¹⁶ See proposed Rule 18a-5 (paragraph (a)(1) (trade blotters); paragraph (a)(2) (general ledgers); paragraph (a)(3) (ledgers of customer and non-customer accounts); paragraph (a)(4) (stock record); paragraph (a)(5) (memoranda of proprietary orders); paragraph (a)(6) (confirmations); paragraph (a)(7) (accountholder information); paragraph (a)(8) (options positions); paragraph (a)(9) (trial balances and computation of net capital); paragraph (a)(10) (associated person's application); paragraph (a)(12) (proposed Rule 18a-3 calculations); paragraph (a)(15) (unverified transactions); paragraph (a)(17) (compliance with external business conduct standards)). Entities that would register as stand-alone SBSDs and stand-alone MSBSPs likely make and keep some records today as a matter of routine business practice, but which records such entities make is not available to the Commission. Therefore, the PRA burden estimates are based on the assumption that they currently keep no records. In addition, the modifications to proposed Rule 18a-5 would only change the burden associated with paragraphs (a)(10) and (b)(8), and would not affect the burdens associated with the other paragraphs in proposed Rule 18a-5.

¹⁷ 260 hours x 13 stand-alone SBSDs and stand-alone MSBSPs = 3,380 hours.

¹⁸ 325 hours/year x 13 stand-alone SBSDs and stand-alone MSBSPs = 4,225 hours/year.

¹⁹ (3,380 hours in first year + 4,225 hours in first year) + 4,225 hours in second year + 4,225 hours in third year = 16,055 hours.

²⁰ 16,055 hours / 3 years = 5,351.67 hours per year.

As modified -

The proposed modifications to paragraph (a)(10) of proposed Rule 18a-5 would (a) exempt stand-alone SBS Entities from the requirement to make and keep current a questionnaire or application for employment for an associated person if the SBS Entity is excluded from the prohibition in section 15F(b)(6) of the Exchange Act with respect to the associated person (e.g., the exclusion proposed in Rule of Practice 194(c)(2)), and (b) allow stand-alone SBS Entities to exclude certain information from their associated person records if receipt of that information or the creation or maintenance of records reflecting that information would result in a violation of applicable law in the jurisdiction where the associated person is employed or located.

The Commission estimates that the proposed modification to add paragraph (a)(10)(iii)(A) to proposed Rule 18a-5 would eliminate the paperwork burden for stand-alone security-based swap dealers and major security-based swap participants associated with making and keeping current questionnaires or applications for employment records, otherwise required by proposed Rule 18a-5, with respect to any associated person if the SBS Entity is excluded from the prohibition in Exchange Act Section 15F(b)(6), including the exclusion proposed in Rule of Practice 194(c)(2) with respect to a natural person who is (i) not a U.S. person and (ii) does not effect and is not involved in effecting security-based swap transactions with or for counterparties that are U.S. persons (other than a security-based swap transaction conducted through a foreign branch of a counterparty that is a U.S. person).

As indicated above, the Commission estimates that there will be approximately 4 stand-alone major security-based swap participants and 9 stand-alone security-based swap dealers. Further, as indicated above, each security-based swap dealer would have approximately 420 associated persons and half of those associated persons, or 210, would not be employed or located in the U.S. The Commission estimates that stand-alone SBS dealers would not need to obtain the questionnaire or application for employment for one third of those associated persons, or 70, because proposed Rule of Practice 194(c)(2) would provide an exclusion from the prohibition in Section 15F(b)(6) of the Exchange Act with respect to associated persons who are not located in the U.S. and do not effect and are not involved in effecting security-based swap transactions with or for counterparties that are U.S. persons (other than a security-based swap transaction conducted through a foreign branch of a counterparty that is a U.S. person).²¹ Similarly, as indicated above, each major security-based swap participant would have approximately 62 associated persons and half of those associated persons, or 31, would not be employed or located in the U.S. The Commission estimates that stand-alone major security-based swap participants would not need to obtain the questionnaire or application for employment for one third of those associated persons, or 10, because proposed Rule of Practice

²¹ 70 associated persons/420 associated persons per security-based swap dealer = a reduction of approximately 16.7%. Security-based swap dealers would be able to utilize this paragraph relative to other exclusions from the requirements of Exchange Act Section 15F(b)(6) that the Commission may provide, however the analysis is focusing solely on the exclusion provided by proposed new paragraph (c)(2) to Rule of Practice 194 for purposes of the Paperwork Reduction Act estimate.

194(c)(2) would provide an exclusion from the prohibition in Section 15F(b)(6) of the Exchange Act with respect to those associated persons.²²

²² 10 associated persons / 62 associated persons per major security-based swap participant = a reduction of approximately 16.1%. Major security-based swap participants would be able to utilize this paragraph relative to other exclusions from the requirements of Exchange Act Section 15F(b)(6) that the Commission may provide, however the analysis is focusing solely on the exclusion provided by proposed new paragraph (c)(2) to Rule of Practice 194 for purposes of this Paperwork Reduction Act estimate.

Given this, the proposed modification to add paragraph (a)(10)(iii)(A) to proposed Rule 18a-5 would reduce the initial burden associated with proposed Rule 18a-5 by 43hours²³ and it would reduce the ongoing burden associated with proposed Rule 18a-5 by 54 hours.²⁴

The Commission estimates that the proposed modification to add paragraph (a)(10)(iii)(B) to proposed Rule 18a-5 would decrease the paperwork burden for stand-alone SBS Entities by permitting the exclusion of certain information mandated by the questionnaire requirement with respect to associated natural persons who effect or are involved in effecting security-based swap transactions with U.S. counterparties where the receipt of that information, or the creation or maintenance of records reflecting such information, would result in a violation of applicable law in the jurisdiction where the associated person is employed or located.

The Commission estimates that this will reduce the burdens associated with obtaining the information specified in the questionnaire requirement by 50% for the affected associated persons. Given this, the modification to add paragraph (a)(10)(iii)(B) to proposed Rule 18a-5

²³ Initial burden hours associated with paragraphs (a)(10) of proposed Rule 18a-5 for stand-alone security-based swap dealers and major security-based swap participants, as proposed –
20 hours x 9 stand-alone security-based swap dealers = 180 initial burden hours for security-based swap dealers.
20 hours x 4 stand-alone major security-based swap participants = 80 initial burden hours for major security-based swap participants.

Initial burden hour reduction associated with the modification to add sub-paragraph (iii)(A) to proposed Rule 18a-5(a)(10):

180 initial burden hours for security-based swap dealers x 16.7% (*see supra* note 21) = 30 hours. 80 initial burden hours for major security-based swap participants x 16.1% (*see supra* note 22) = 13 hours. A 30 hour reduction in the initial burden for security-based swap dealers + a 13 hour reduction in the initial burden for major security-based swap participants = a 43 hour reduction in initial burden hours across all entities able to rely on paragraph (a)(10) of proposed Rule 18a-5.

²⁴ Ongoing burden hours associated with paragraph (a)(10) of proposed Rule 18a-5 for stand-alone security-based swap dealers and major security-based swap participants, as proposed –
25 hours x 9 stand-alone security-based swap dealers = 225 ongoing burden hours for security-based swap dealers.
25 hours x 4 stand-alone major security-based swap participants = 100 ongoing burden hours for major security-based swap participants.

Ongoing burden hour reduction associated with the modification to add sub-paragraph (iii)(A) to proposed Rule 18a-5(a)(10):

225 ongoing burden hours for security-based swap dealers x 16.7% (*see supra* note 21) = 38 hours. 100 ongoing burden hours for major security-based swap participants x 16.1% (*see supra* note 22) = 16 hours. A 38 hour reduction in the ongoing burden for security-based swap dealers + a 16 hour reduction in the ongoing burden for major security-based swap participants = a 54 hour reduction in ongoing burden hours across all entities able to rely on paragraph (a)(10) of proposed Rule 18a-5.

would reduce the initial burden associated with proposed Rule 18a-5 by 21 hours²⁵ and would reduce the ongoing burden associated with proposed Rule 18a-5 by 27 hours.²⁶

Thus, in total, the addition of both paragraphs (a)(10)(iii)(A) and (a)(10)(iii)(B) would reduce the initial burden associated with the questionnaire requirement in proposed Rule 18a-5 by 64 hours,²⁷ and the ongoing burden associated with the questionnaire requirement in proposed Rule 18a-5 by 81 hours.²⁸ Consequently, over a three year period, the total estimated industry burden associated with proposed paragraph (a) of Rule 18a-5, as modified, would be 15,748 hours,²⁹ or about 5,249 hours per year when annualized.³⁰

²⁵ Initial burden hours associated with paragraphs (a)(10) of proposed Rule 18a-5 for stand-alone security-based swap dealers and major security-based swap participants, as proposed –

20 hours x 9 stand-alone security-based swap dealers = 180 initial burden hours for security-based swap dealers.

20 hours x 4 stand-alone major security-based swap participants = 80 initial burden hours for major security-based swap participants.

Initial burden hour reduction associated with the modification to add sub-paragraph (iii)(B) to proposed Rule 18a-5(a)(10):

180 initial burden hours for security-based swap dealers x 16.7% (*see supra* note 21) x 50% = 15 hours. 80 initial burden hours for major security-based swap participants x 16.1% (*see supra* note 22) x 50% = 6 hours. A 15 hour reduction in the initial burden for security-based swap dealers + a 6 hour reduction in the initial burden for major security-based swap participants = a 21 hour reduction in initial burden hours across all entities able to rely on paragraph (a)(10)(iii)(B) of proposed Rule 18a-5.

²⁶ Ongoing burden hours associated with paragraph (a)(10) of proposed Rule 18a-5 for stand-alone security-based swap dealers and major security-based swap participants, as proposed –

25 hours x 9 stand-alone security-based swap dealers = 225 ongoing burden hours for security-based swap dealers.

25 hours x 4 stand-alone major security-based swap participants = 100 ongoing burden hours for major security-based swap participants.

Ongoing burden hour reduction associated with the modification to add sub-paragraph (iii)(B) to proposed Rule 18a-5(a)(10):

225 ongoing burden hours for security-based swap dealers x 16.7% (*see supra* note 14) x 50% = 19 hours. 100 ongoing burden hours for major security-based swap participants x 16.1% (*see supra* note 15) x 50% = 8 hours. A 19 hour reduction in the ongoing burden for security-based swap dealers + a 8 hour reduction in the ongoing burden for major security-based swap participants = a 27 hour reduction in ongoing burden hours across all entities able to rely on paragraph (a)(10)(iii)(B) of proposed Rule 18a-5.

²⁷ A 43 hour reduction in initial burden hours associated with the addition of paragraphs (a)(10)(iii)(A) and a 21 hour reduction in initial burden hours associated with the addition of paragraphs (a)(10)(iii)(B) = a 64 hour reduction in initial burden hours.

²⁸ A 54 hour reduction in ongoing burden hours associated with the addition of paragraphs (a)(10)(iii)(A) and a 27 hour reduction in ongoing burden hours associated with the addition of paragraphs (a)(10)(iii)(B) = a 81 hour reduction in ongoing burden hours.

²⁹ (3,380 hours – 64 hours) = 3,316 initial hours. (4,225 hours – 81 hours) = 4,144 ongoing hours. (3,316 initial hours + 4,144 ongoing hours in the first year) + 4,144 ongoing hours in second year + 4,144 ongoing hours in third year = 15,748 hours.

³⁰ 15,748 hours / 3 years = 5,249.33 hours per year.

Bank SBSDs and Bank MSBSPs:

As proposed -

Paragraph (b) of proposed Rule 18a-5, as originally proposed, would have required each bank SBSD and bank MSBSP to make and keep current 10 types of records (including paragraph (b)(8)),³¹ and the Commission originally estimated that the initial burden associated with that proposed paragraph would be 200 hours in the first year and that the ongoing annual burden would be approximately 250 hours for each firm. This would amount to an initial burden of approximately 20 hours and an ongoing annual burden of approximately 25 hours associated with each of the 10 types of records for each firm.

The Commission further estimated that 25 respondents (25 bank SBSDs and no bank MSBSPs) would be required to comply with paragraph (b) of proposed rule 18a-5, resulting in an estimated initial burden of 5,000 hours³² and an ongoing burden of 6,250 hours per year (including the first year) for these respondents.³³ Over a three year period, the total estimated industry burden associated with proposed paragraph (b) of Rule 18a-5 would be 23,750 hours,³⁴ or about 7,917 hours per year when annualized.³⁵

As modified -

The proposed modifications to paragraph (b)(8) of proposed Rule 18a-5 would (a) exempt bank SBS Entities from the requirement to make and keep current a questionnaire or application for employment for an associated person if the SBS Entity is excluded from the prohibition in section 15F(b)(6) of the Exchange Act with respect to the associated person (e.g., the exclusion proposed in Rule of Practice 194(c)(2)), and (b) allow bank SBS Entities to exclude certain information from their associated person records if receipt of that information or the creation or maintenance of records reflecting that information would result in a violation of applicable law in the jurisdiction where the associated person is employed or located.

The Commission estimates that the proposed modification to add paragraph (b)(8)(iii)(A) to proposed Rule 18a-5 would eliminate the paperwork burden for bank security-based swap dealers and major security-based swap participants associated with making and keeping current questionnaires or applications for employment records, otherwise required by proposed Rule 18a-5, with respect to any associated person if the SBS Entity is excluded from the prohibition in

³¹ See proposed Rule 18a-5 (paragraph (b)(1) (trade blotters); paragraph (b)(2) (general ledgers); paragraph (b)(3) (stock record); paragraph (b)(4) (memoranda of brokerage orders); paragraph (b)(5) (memoranda of proprietary orders); paragraph (b)(6) (confirmations); paragraph (b)(7) (account holder information); paragraph (b)(8) (associated person's application); paragraph (b)(11) (unverified transactions); and paragraph (b)(13) (compliance with external business conduct requirements)).

³² 200 hours x 25 bank SBSDs and bank MSBSPs = 5,000 hours.

³³ 250 hours x 25 bank SBSDs and bank MSBSPs = 6,250 hours.

³⁴ (5,000 hours in first year + 6,250 hours in first year) + 6,250 hours in second year + 6,250 hours in third year = 23,750 hours.

³⁵ 23,750 hours / 3 years = 7,916.67 hours per year.

Exchange Act Section 15F(b)(6), including the exclusion proposed in Rule of Practice 194(c)(2) with respect to a natural person who is (i) not a U.S. person and (ii) does not effect and is not involved in effecting security-based swap transactions with or for counterparties that are U.S. persons (other than a security-based swap transaction conducted through a foreign branch of a counterparty that is a U.S. person).

As indicated above, the Commission estimates that there will be approximately 25 bank security-based swap dealers. Further, as indicated above, each security-based swap dealer would have approximately 420 associated persons and half of those associated persons, or 210, would not be employed or located in the U.S. The Commission estimates that bank SBS dealers would not need to obtain the questionnaire or application for employment for one third of those associated persons, or 70, because proposed Rule of Practice 194(c)(2) would provide an exclusion from the prohibition in Section 15F(b)(6) of the Exchange Act with respect to associated persons who are not located in the U.S. and do not effect and are not involved in effecting security-based swap transactions with or for counterparties that are U.S. persons (other than a security-based swap transaction conducted through a foreign branch of a counterparty that is a U.S. person).³⁶

Given this, the proposed modification to add paragraph (b)(8)(iii)(A) to proposed Rule 18a-5 would reduce the initial burden associated with proposed Rule 18a-5 by 84 hours³⁷ and it would reduce the ongoing burden associated with proposed Rule 18a-5 by 104 hours.³⁸

The Commission estimates that the proposed modification to add paragraph (b)(8)(iii)(B) to proposed Rule 18a-5 would decrease the paperwork burden for bank SBS Entities by permitting the exclusion of certain information mandated by the questionnaire requirement with respect to associated natural persons who effect or are involved in effecting security-based swap transactions with U.S. counterparties where the receipt of that information, or the creation or

³⁶ See *supra*, footnote 21.

³⁷ Initial burden hours associated with paragraph (b)(8) of proposed Rule 18a-5 for bank security-based swap dealers, as proposed –
20 hours x 25 bank security-based swap dealers = 500 initial burden hours for bank security-based swap dealers.

Initial burden hour reduction associated with the modification to add sub-paragraph (iii)(A) to proposed Rule 18a-5(b)(8):
500 initial burden hours for bank security-based swap dealers x 16.7% (*see supra* note 21) = an 84 hour reduction in initial burden hours across all entities able to rely on paragraph (b)(8)(iii)(A) of proposed Rule 18a-5.

³⁸ Ongoing burden hours associated with paragraph (b)(8) of proposed Rule 18a-5 for bank security-based swap dealers, as proposed –
25 hours x 25 bank security-based swap dealers = 625 ongoing burden hours for bank security-based swap dealers.

Ongoing burden hour reduction associated with the modification to add sub-paragraph (iii)(A) to proposed Rule 18a-5(b)(8):
625 ongoing burden hours for bank security-based swap dealers x 16.7% (*see supra* note 21) = an 104 hour reduction in the ongoing burden for all bank security-based swap dealers able to rely on paragraph (b)(8)(iii)(A) of proposed Rule 18a-5.

maintenance of records reflecting such information, would result in a violation of applicable law in the jurisdiction where the associated person is employed or located.

The Commission estimates that this will reduce the burdens associated with obtaining the information specified in the questionnaire requirement by 50% for the affected associated persons. Given this, the addition of paragraph (b)(8)(iii)(B) to proposed Rule 18a-5 would reduce the initial burden associated with proposed Rule 18a-5 by 42 hours³⁹ and would reduce the ongoing burden associated with proposed Rule 18a-5 by 52 hours.⁴⁰

Thus, in total, the addition of both paragraphs (b)(8)(iii)(A) and (b)(8)(iii)(B) would reduce the initial burden associated with the questionnaire requirement in proposed Rule 18a-5 by 126 hours,⁴¹ and the ongoing burden associated with the questionnaire requirement in proposed Rule 18a-5 by 156 hours.⁴² Consequently, over a three year period, the total estimated industry burden associated with proposed paragraph (b) of Rule 18a-5, as modified, would be 23,156 hours,⁴³ or about 7,719 hours per year when annualized.⁴⁴

Total Reduction in the Industry Hour Burden associated with the Modification of Proposed Rule 18a-5 to add paragraphs (a)(10)(iii)(A), (a)(10)(iii)(B), (b)(8)(iii)(A) and (b)(8)(iii)(B):

³⁹ Initial burden hours associated with paragraph (b)(8) of proposed Rule 18a-5 for bank security-based swap dealers, as proposed –
20 hours x 25 bank security-based swap dealers = 500 initial burden hours for security-based swap dealers.

Initial burden hour reduction associated with the modification to add sub-paragraph (iii)(B) to proposed Rule 18a-5(b)(8):
500 initial burden hours for security-based swap dealers x 16.7% (*see supra* note 21) x 50% = a 42 hour reduction in initial burden hours across all entities able to rely on paragraph (b)(8) of proposed Rule 18a-5.

⁴⁰ Ongoing burden hours associated with paragraph (b)(8) of proposed Rule 18a-5 for bank security-based swap dealers, as proposed –
25 hours x 625 bank security-based swap dealers = 500 ongoing burden hours for security-based swap dealers.

Ongoing burden hour reduction associated with the modification to add sub-paragraph (iii)(B) to proposed Rule 18a-5(b)(8):
625 ongoing burden hours for security-based swap dealers x 16.7% (*see supra* note 21) x 50% = a 52 hour reduction in ongoing burden hours across all entities able to rely on paragraph (b)(8) of proposed Rule 18a-5.

⁴¹ An 84 hour reduction in initial burden hours associated with the addition of paragraph (b)(8)(iii)(A) and a 42 hour reduction in initial burden hours associated with the addition of paragraph (b)(8)(iii)(B) = a 126 hour reduction in initial burden hours.

⁴² A 104 hour reduction in ongoing burden hours associated with the addition of paragraph (b)(8)(iii)(A) and a 52 hour reduction in ongoing burden hours associated with the addition of paragraph (b)(8)(iii)(B) = a 156 hour reduction in ongoing burden hours.

⁴³ (5,000 hours – 126 hours) = 4,874 initial hours. (6,250 hours – 156 hours) = 6,094 ongoing hours. (4,874 hours in first year + 6,094 hours in first year) + 6,094 hours in second year + 6,094 hours in third year = 23,156 hours.

⁴⁴ 23,156 hours / 3 years = 7,718.67 hours per year.

Thus, the decrease in the total initial industry hour burden attributable to the proposed modifications to proposed Rule 18a-5 are estimated to be 190 hours⁴⁵ in the first year and the decrease in the total industry ongoing hour burden attributable to proposed modifications to proposed Rule 18a-5 are estimated to be 237 hours per year (including the first year).⁴⁶ Over a three year period, the decrease in the total estimated industry burden associated with proposed modifications to proposed Rule 18a-5 are estimated to be 905 hours,⁴⁷ or about 301.67 hours per year when annualized.⁴⁸ These burdens are recordkeeping burdens.

Summary of Hourly Burdens											
Name of Information Collection	Type of Burden	A	B	C	D	E	F	G			
		Number of Entities Impacted	Annual Responses per Entity	Initial Burden per Entity per Response	Initial Burden Annualized per Entity per Response	Ongoing Burden per Entity per Response	Annual Burden Per Entity per Response	Total Annual Burden Per Entity	Total Industry Burden	Small Business Entities Affected	
					[C ÷ 3 years]		[D + E]	[F * B]	[G * A]	[A * 0 %]	
Stand-alone SBSBs and stand-alone MSBSPs: Paragraphs (a)(1) through (a)(10), (a)(12), (a)(15), and (a)(17) ⁴⁹	As Proposed	Recordkeeping	13	1	260	86.67	325	411.67	411.67	5,351.67	0
	Reduction				-4.92		-6.23		-7.87	-102.31	
	As modified				255.08	85.03	318.77	403.8	403.8	5,249.4	0
Bank SBSBs and bank MSBSPs: Paragraphs (b)(1) through (b)(8), (b)(11), and (b)(13) ⁵⁰	As Proposed	Recordkeeping	25	1	200	66.67	250	316.67	316.67	7,916.67	0
	Reduction				-5.04		-6.24		-7.92	-198	
	As modified				194.96	64.99	243.76	308.75	308.75	7,718.75	0
Total Reduction to 18a-5, including (a)(10) and (b)(8) -										-300	

13. Costs to Respondents

In its April 17, 2014 rulemaking, when it proposed Rule 18a-5, the Commission estimated that there would be thirteen respondents (nine stand-alone SBSBs and four stand-alone MSBSPs), resulting in an estimated industry-wide initial cost burden of \$13,000⁵¹ and an

⁴⁵ A 64 hour reduction + a 126 hour reduction = a 194 hour reduction.

⁴⁶ An 81 hour reduction + a 156 hour reduction = a 237 hour reduction.

⁴⁷ (194 hours in first year + 237 hours in first year) + 237 hours in second year + 237 hours in third year = 905 hours.

⁴⁸ 905 hours / 3 years = 301.67 hours per year.

⁴⁹ The rulemaking proposes to modify only paragraph (a)(10). No modifications are proposed to paragraphs (a)(1) through (a)(9), (a)(12), (a)(15), or (a)(17).

⁵⁰ The rulemaking proposes to modify only paragraph (b)(8). No modifications are proposed to paragraphs (b)(1) through (b)(7), (b)(11), or (b)(13).

⁵¹ \$1,000 x 13 stand-alone SBSBs and stand-alone MSBSPs = \$13,000.

industry-wide ongoing burden of \$60,450 per year.⁵² Further, the Commission calculated that the total estimated industry burden over a three year period would be \$194,350,⁵³ or about \$64,783 per year when annualized.⁵⁴

The Commission believes that the modifications to proposed Rule 18a-5 would not impact the costs of the rule as proposed.

14. Cost to 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 Commission originally estimated that the burden for Stand-alone SBSs and stand-alone MSBSPs: Paragraphs (a)(1) through (a)(10), (a)(12), (a)(15), and (a)(17) of 18a-5 would be approximately 5,351.67 hours annually. Similarly, the Commission originally estimated that the burden for bank SBSs and bank MSBSPs associated with paragraphs (b)(1) through (b)(8), (b)(11), and (b)(13) of 18a-5 would be approximately 7,916.67 hours annually. The proposed burdens were due to a new statutory provision that requires Commission rulemaking, and therefore have been designated as a program change due to a new statute.

As described in more detail above, the Commission estimates that the proposed modifications to add paragraphs (a)(10)(iii)(A) and (a)(10)(iii)(B) to proposed Rule 18a-5 would decrease the annual burden associated with proposed paragraphs (a)(1) through (a)(10), (a)(12), (a)(15), and (a)(17) of Rule 18a-5 by approximately 102.34 hours to 5,249.33. Similarly, the Commission estimates that the proposed modifications to add paragraphs (b)(8)(iii)(A) and (b)(8)(iii)(B) to proposed paragraphs (b)(1) through (b)(8), (b)(11), and (b)(13) of Rule 18a-5 would decrease the annual burden associated with proposed Rule 18a-5 by approximately 198 hours to 7,718.67 hours.

The Commission believes the modifications to Rule 18a-5 would not change the costs associated with the rule as originally estimated. The Commission originally estimated that the increased initial cost burden associated with Rule 18a-5 would be \$13,000 and estimated increased ongoing cost burden would be \$60,450 per year for the stand-alone SBSs and stand-alone MSBSPs industry. Further, the Commission originally estimated that there would be no expected increase in cost burden associated with Rule 18a-5 for bank SBSs and bank MSBSPs, because we believe they already own or have established the requisite recordkeeping system software necessary to manage their operations.

⁵² \$4,650/year x 13 stand-alone SBSs and stand-alone MSBSPs = \$60,450/year.

⁵³ (\$13,000 in first year + \$60,450 in first year) + \$60,450 in second year + \$60,450 in third year = \$194,350.

⁵⁴ \$194,350 / 3 years = \$64,783.33/year.

Name of Information Collection	Proposed Industry Burden (as proposed to be modified)	Proposed Industry Burden Previously Reviewed	Change in Burden	Reason for Change
Stand-alone SBSDBs and stand-alone MSBSPs: Paragraphs (a)(1) through (a)(10), (a)(12), (a)(15), and (a)(17)	5,249.33 hours	5,351.67 hours	(102.34 hours)	Modifications to proposed paragraph (a) of Rule 18a-5.
Bank SBSDBs and bank MSBSPs: Paragraphs (b)(1) through (b)(8), (b)(11), (b)(13)	7,718.67 hours	7,916.67	(198 hours)	Modifications to proposed paragraph (b) of Rule 18a-5.

16. Information Collection Planned for Statistical Purposes

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

17. OMB Expiration Date Display Approval

The Commission is not seeking approval to not display the OMB approval 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.