

**SUPPORTING STATEMENT for the Paperwork Reduction Act Information Collection  
Submission for Rule 15c3-3 – Customer Protection—Reserves and Custody of Securities  
3235-0078**

This submission is being made pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 *et seq.* This Supporting Statement includes new collections of information that were previously proposed in Rule 18a-4 (OMB No. 3235-0700) and that are being moved to this Rule 15c3-3 (OMB No. 3235-0078) based on comments received during the rulemaking process. The collections of information that were already in Rule 15c3-3, and that were not part of the rulemaking notice and comment process, are included in this Supporting Statement and are being extended as well.

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

During the “Paperwork Crisis” of 1967–1970, many brokers-dealers mishandled and misused customer funds and securities because they had inadequate and inefficient record keeping and segregation systems. Furthermore, the 1969–1970 “bear market” caused many firms that lacked sufficient capital to utilize customer funds and securities to obtain financing for their continued operation. In order to rectify these problems, the Securities and Exchange Commission (“Commission”) adopted Rule 15c3-3 under the Securities Exchange Act of 1934 (“Exchange Act”) to provide increased protection for the funds and securities of customers.<sup>1</sup>

Rule 15c3-3 requires all broker-dealers that hold securities or cash belonging to customers to obtain and maintain possession or control of all the fully-paid and excess margin securities of their customers.<sup>2</sup> In addition, these broker-dealers must make a periodic computation (“reserve computation”) to ascertain the amount of money being held that constitutes customer funds or funds obtained from the use of customer securities. If this amount – known as “customer credits” – exceeds the amount of money customers owe the firm (“customer debits”), the broker-dealer must deposit the excess in a special reserve bank account for the exclusive benefit of the firm’s customers (“Special Reserve Bank Account”).<sup>3</sup> In this way, Rule 15c3-3 protects customer assets by requiring firms to maintain possession or control of customer securities, and by permitting firms to use customer money only to the extent necessary to finance customer-related business.

Rule 15c3-3 requires broker-dealers to make the reserve computation on either a weekly or monthly basis. Broker-dealers are also required to: (1) maintain a description of the procedures utilized to comply with the possession and control requirements of Rule 15c3-3; (2) maintain a written notification from the bank where the Special Reserve Bank Account is located

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<sup>1</sup> See *Broker-dealers; Maintenance of Certain Basic Reserves*, Exchange Act Release No. 9856 (Nov. 10, 1972), 37 FR 25224 (Nov. 29, 1972).

<sup>2</sup> 17 CFR 240.15c3-3.

<sup>3</sup> For purposes of this Paperwork Reduction Act (“PRA”) submission, the term “Special Reserve Bank Account” includes accounts set up in accordance with both paragraph (e)(1) and (k)(2)(i) of Rule 15c3-3.

that all assets in the account are for the exclusive benefit of the broker-dealer's customers; and (3) give telegraphic notice to the Commission, and the appropriate designated examining authority ("DEA"), if they fail to make a required deposit in the Special Reserve Bank Account.

In addition, paragraph (o) of Rule 15c3-3 requires that a broker-dealer that effects transactions for customers in security futures products ("SFP") must: (1) establish written policies and procedures for determining whether customer SFPs will be placed in a securities account or a futures account, and, if applicable, the process by which a customer may elect the type of account in which SFPs will be held; (2) provide each customer that plans to effect SFP transactions with a disclosure document containing certain information; (3) make a record of each change in account type; and (4) send each SFP customer notification of any change of account type.

In accordance with Section 764 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"),<sup>4</sup> which added section 15F to the Exchange Act,<sup>5</sup> on June 21, 2019,<sup>6</sup> the Commission adopted amendments to Rule 15c3-3 to establish segregation and notice requirements for broker-dealers, including broker-dealer security-based swap dealers ("SBSDs"), that are parallel to the requirements in Rule 18a-4<sup>7</sup> applicable to SBSBs that are not broker-dealers ("2019 amendments"). Specifically, the Commission is adding new paragraph (p) to Rule 15c3-3 to establish segregation and notice requirements for broker-dealers with respect to their security-based swap activity.<sup>8</sup> The Commission is codifying the security-based swap segregation requirements for broker-dealers in Rule 15c3-3, as amended, rather than in Rule 18a-4, as adopted, in order to consolidate broker-dealer customer protection requirements in Rule 15c3-3.<sup>9</sup> Therefore, the associated information collection burdens related to security-based swap segregation and notice requirements for broker-dealer SBSBs (specifically, those information collections that relate to special accounts, customer reserve computation, counterparty notice, and subordination agreements) have been moved from Rule 18a-4 to Rule 15c3-3.<sup>10</sup>

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<sup>4</sup> See *Dodd-Frank Wall Street Reform and Consumer Protection Act*, Public Law 111-203, 124 Stat. 1376 (2010).

<sup>5</sup> See 15 U.S.C. 78o-10(e)(2)(B).

<sup>6</sup> See *Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers*, Exchange Act Release No. 86175.

<sup>7</sup> OMB No. 3235-0700. This rule was submitted to OMB for its review at the proposing stage.

<sup>8</sup> See paragraph (p) to Rule 15c3-3, as amended.

<sup>9</sup> The hour burdens for the collection of information related to Rule 15c3-3, as amended, in the final rule release were included in the collection of information for Rule 18a-4, as proposed to be adopted, in the proposing release. See *Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers; Proposed Rule*, Exchange Act Release No. 68071, 77 FR 70214 (Nov. 23, 2012). These hours were moved to the existing collection of information in Rule 15c3-3, as amended, as a result of changes made to the final rule in response to comments to require that broker-dealers comply with the segregation requirements of paragraph (p) to Rule 15c3-3, as amended, with respect to their security-based swap activities (rather than the requirements of Rule 18a-4, as adopted). For more information about the comments, see *infra* note 15.

<sup>10</sup> There are other burdens in Rule 18a-4, however, that remain applicable to other entities and have not been moved to Rule 15c3-3. As discussed in more detail in the supporting statement for Rule 18a-4, Rule 18a-4

## **2. Purpose and Use of the Information Collection**

Rule 15c3-3 is an integral part of the Commission's financial responsibility program for broker-dealers. Its purpose is to protect the rights of customers to promptly obtain their property from a broker-dealer. Rule 15c3-3's reserve and notice requirements facilitate the process by which the Commission and the various DEAs monitor how broker-dealers are fulfilling their custodial responsibilities to investors. With the exception of the telegraphic notice requirement, governmental agencies do not regularly receive any of the information described above. Instead, the information is stored by the broker-dealer and made available to the various securities regulatory authorities as required to facilitate examinations and investigations. If broker-dealers were not required to create and maintain this information, the Commission's ability to fulfill its statutory directive to protect investors would be diminished.

Rule 15c3-3 also requires that a broker-dealer provide each customer that wishes to engage in SFP activities with a disclosure document and notification of any change of account type. Without these disclosures and notifications, in the event of a liquidation, customers may be uncertain or confused as to which regulatory scheme is applicable to their account.

**2019 Amendments.** The 2019 amendments to Rule 15c3-3 are integral to the Commission's financial responsibility program for broker-dealers and broker-dealer/SBSDs as they are designed to protect the rights of security-based swap customers and their ability to promptly obtain their property from a broker-dealer. The collection of information requirements in the rule facilitates the process by which the Commission and its staff monitor how broker-dealers are fulfilling their custodial responsibilities to security-based swap customers. The 2019 amendments to Rule 15c3-3 also require that a broker-dealer provide certain notices to its counterparties.<sup>11</sup> These notices alert counterparties to the alternatives available to them with respect to segregation of non-cleared security-based swaps. The Commission and its staff will use this collection of information in the 2019 amendments to confirm registrants are providing the requisite notice to counterparties.

## **3. Consideration Given to Information Technology**

Rule 15c3-3 does not prevent a broker-dealer from using computers or other mechanical devices to generate, obtain, disclose or maintain the records and information required under the rule. Currently, most firms utilize automated systems to comply with Rule 15c3-3. The Commission is not aware of any technical or legal obstacle to reducing the burden through the use of improved information technology.

## **4. Duplication**

There are no similar rules that are duplicative of Rule 15c3-3. Copies of notices required to be filed with the Commission under paragraph (i) of Rule 15c3-3 must also be filed with the

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was adopted to establish largely parallel segregation requirements applicable to stand-alone and bank SBSDs, as well as notification requirements for nonbank SBSDs.

<sup>11</sup> See paragraphs (p)(1) and (p)(3) of Rule 15c3-3, as amended.

regulatory authority that examines the broker-dealer for compliance with financial responsibility, helping to avoid duplication.

## **5. Effects on Small Entities**

Paragraph (k) of Rule 15c3-3 has the effect of exempting most small broker-dealers from the rule's requirements. Small broker-dealers that are not exempt from Rule 15c3-3 can make the required computation monthly as long as they have aggregate indebtedness not exceeding 800% of net capital and carry aggregate customer funds not exceeding \$1,000,000. The Commission estimates that, as of 2019 year end, approximately 3 broker-dealers were small entities that performed a customer reserve computation pursuant to Rule 15c3-3. In addition, the information collections required under the 2019 amendments do not place burdens on small entities. The broker-dealer SBSs subject to the information collections under the rule are not expected to be small entities.

## **6. Consequences of Not Conducting Collection**

If the required information were not conducted or were conducted less frequently, the level of protection afforded to the counterparties and the U.S. financial system by Rule 15c3-3 would be diminished.

## **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**

No payments of gifts have been provided to respondents.

## **10. Confidentiality**

The information collected by the Commission under Rule 15c3-3, as amended, is kept confidential to the extent permitted by the Freedom of Information Act (5 U.S.C. § 552 *et seq.*).

## **11. Sensitive Questions**

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 Commission estimates that the aggregate annual hour burden associated with Rule 15c3-3 is approximately 722,091 hours calculated as described below.<sup>12</sup>

### Existing Hour Burdens

The Commission estimates that, as of December 31, 2019, there were approximately 216 broker-dealers fully subject to Rule 15c3-3 (*i.e.*, broker-dealers that cannot claim any of the exemptions enumerated in paragraph (k)), of which approximately 12 made daily, 163 made weekly, and 41 made monthly, reserve computations.<sup>13</sup> Paragraph (e)(3) of Rule 15c3-3 requires each broker-dealer to make a record of each such computation.<sup>14</sup> Based on staff experience, the Commission estimates that it takes between one and five hours to make a record of each reserve computation, and that the average time spent across all the firms is 2.5 hours. Accordingly, the Commission estimates that the aggregate annual recordkeeping burden for all daily, weekly, and monthly reserve computations is approximately 29,920 hours (7,500 hours for daily computations + 21,190 hours for weekly computations + 1,230 for hours for monthly computations).<sup>15</sup>

Furthermore, paragraph (e) of Rule 15c3-3 requires a PAB<sup>16</sup> reserve computation that will result in a one-time and annual burden. The Commission estimates that approximately 61 broker-dealers perform a PAB reserve computation.<sup>17</sup> The Commission estimates that, of these 61 firms, approximately 31 firms will spend, on average, approximately 30 hours of employee resources per firm updating their systems to comply with the rule. Therefore, the Commission estimates that the total one-time recordkeeping burden to broker-dealers arising from updating their systems will be approximately 930 hours, or 310 hours on an annualized basis.<sup>18</sup> The

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<sup>12</sup> 625,490 existing IC requirement hours + 96,601 new IC requirement hours = 722,091 hours.

<sup>13</sup> This estimate is based on the number of firms that, as of December 31, 2019, indicated on either Part II or Part II CSE of their FOCUS reports (OMB Control Number 3235-0123) that they make their 15c3-3 computations daily (line 4332), weekly (line 4333), or monthly (line 4334).

<sup>14</sup> 17 CFR 240.15c3-3(e)(3). 25 broker-dealers did not indicate the frequency with which they calculated their customer reserve requirement. The Commission assumes for this supporting statement that these firms make the calculation on a weekly basis.

<sup>15</sup> (2.5 hours x 250 computations annually x 12 respondents that calculate daily) + (2.5 hours x 52 computations annually x 163 respondents that calculate weekly) + (2.5 hours x 12 computations annually x 41 respondents that calculate monthly) = 29,920 hours.

<sup>16</sup> The term PAB account means a proprietary securities account of a broker or dealer (which includes a foreign broker or dealer, or a foreign bank acting as a broker or dealer) other than a delivery-versus-payment account or a receipt-versus-payment account. The term does not include an account that has been subordinated to the claims of creditors of the carrying broker or dealer. 15c3-3(a)(16)

<sup>17</sup> This estimate is based on the number of brokers-dealers that have, as of December 31, 2019, either aggregate credit items (line 2170) or debit items (line 2230) on either Part II or Part II CSE of their FOCUS Reports.

<sup>18</sup> 31 broker-dealers x 30 hours per firm = 930 hours. On an annualized basis, this would be 310 hours (930 / 3 = 310) and 10 hours per broker-dealer (310 / 31 = 10).

Commission also estimates that of the 61 broker-dealers estimated to perform a PAB reserve computation, approximately 56 of the current PAB filers will perform the PAB reserve computation on a weekly basis, 2 broker-dealers will perform it on a monthly basis, and 3 broker-dealers will perform the PAB reserve computation on a daily basis. The Commission estimates that a broker-dealer will spend, on average, approximately 2.5 hours to complete the PAB reserve computation in order to make a record of such computation pursuant to paragraph (e) of Rule 15c3-3. Therefore, the Commission estimates that the aggregate annual recordkeeping burden to broker-dealers from this PAB computation requirement will be approximately 9,215 hours (7,280 hours for weekly computations + 60 hours for monthly computations + 1,875 hours for daily computations).<sup>19</sup>

Paragraph (a)(16) of Rule 15c3-3 excludes from its definition of “PAB account,” an account that “has been subordinated to the claims of creditors of the carrying broker or dealer.”<sup>20</sup> The Commission understands that most PAB account holders that enter into a subordinated loan agreement with a broker-dealer that maintains custody of customer securities and cash (“carrying broker-dealer”) in order to not be treated as PAB accounts under paragraph (a)(16) likely will be affiliates of the broker-dealer. The Commission estimates that the 61 broker-dealers that carry PAB accounts will enter into an average of 11 subordination agreements under paragraph (a)(16) and it will take a carrying broker-dealer approximately 20 hours to draft a subordination agreement. Therefore, the Commission estimates that the total one-time recordkeeping burden will be approximately 13,420 hours, or approximately 4,473 hours per year on an annualized basis.<sup>21</sup>

Paragraph (b)(5) of Rule 15c3-3 requires carrying broker-dealers to provide PAB account holders with written notice that the account holder’s non-margin securities may be used in the ordinary course of its business. As noted above, the Commission estimates that approximately 61 broker-dealers carry PAB accounts. The Commission further estimates that, on average, a firm will spend approximately 10 hours of employee resources drafting or updating a standard notice template, for a total one-time recordkeeping burden of approximately 610 hours, or approximately 203 hours per year on an annualized basis.<sup>22</sup> The Commission also estimates that there are approximately 1,056 existing PAB customers<sup>23</sup> and approximately 5% of those customers (approximately 53 customers) will be affected by this requirement as they have not yet

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<sup>19</sup> (56 weekly filers x 52 weeks x 2.5 hours per computation) + (2 monthly filers x 12 months x 2.5 hours per computation) + (3 daily filers x 250 business days per year x 2.5 hours per computation) = 9,215 total hours.

<sup>20</sup> For purposes of this supporting statement, the term “PAB account” references accounts held at carrying broker-dealers that hold the proprietary securities and cash of other broker-dealers.

<sup>21</sup> 61 broker-dealers x 11 accounts x 20 hours = 13,420 hours. For purposes of this supporting statement, the total annualized burden over the three year approval period will be 4,473 hours (13,420 / 3 = 4,473.333, rounded down to 4,473), with an average of 73 hours per respondent (4,473.33 / 61 broker-dealers = 73.333, rounded down to 73).

<sup>22</sup> 61 firms x 10 hours = 610 hours. For purposes of this supporting statement, this one-time burden annualized over the three year approval period is 203.33 hours (610 / 3 = 203.333, rounded down to 203 hours), with an average per 61 broker-dealers of 3 hours (203.33 / 61 = 3.333, rounded down to 3).

<sup>23</sup> This estimate is based on the number of firms that, as of December 31, 2019, have account numbers on either lines 418, 419, 420, or 424 of Part IIA of the FOCUS report.

received the required written notice from their broker-dealer.<sup>24</sup> Therefore, broker-dealers will have to send approximately 53 written notices, spending approximately 10 minutes per account sending out the required written notice, for a total one-time disclosure burden of 8.83 hours, or approximately 3 hours per year on an annualized basis.<sup>25</sup>

Further, the Commission estimates that the 61 firms that carry PAB accounts will have to amend or update their standard PAB agreement template. The Commission estimates a firm will spend, on average, approximately 20 hours of employee resources on this task, for a total one-time recordkeeping burden of approximately 1,220 hours, or approximately 407 hours per year on an annualized basis.<sup>26</sup>

Paragraph (f) of Rule 15c3-3 prescribes that a broker-dealer required to maintain a Special Reserve Bank Account must obtain and retain a written notification from each bank in which it has a Special Reserve Bank Account to evidence the bank's acknowledgement that assets deposited in the account are being held by the bank for the exclusive benefit of the broker-dealer's customers.<sup>27</sup> As stated above, 216 broker-dealers are estimated to be fully subject to Rule 15c3-3. In addition, 138 broker-dealers operate in accordance with the exemption provided in paragraph (k)(2)(i),<sup>28</sup> which also requires that a broker-dealer maintain a special reserve account. Broker-dealers generally maintain longstanding relationships with banks where they hold their Special Reserve Bank Accounts and thus do not need to obtain these letters frequently. The Commission estimates that of the total number of broker-dealers that must comply with Rule 15c3-3, only 25%, or approximately 89 broker-dealers,<sup>29</sup> must obtain one new letter each year.<sup>30</sup> The Commission estimates that it will take a broker-dealer approximately one hour to obtain this written notification from a bank regarding a Special Reserve Bank Account.<sup>31</sup> Therefore, the Commission estimates a total annual recordkeeping burden of approximately 89 hours to obtain these written notifications.<sup>32</sup>

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<sup>24</sup> 1,056 PAB account holders x 5% = 52.8 PAB account holders, rounded up to 53 PAB account holders.

<sup>25</sup> 53 PAB account holders x 10 minutes = 530 minutes. 530 minutes / 60 minutes = 8.833, rounded to 8.83 hours. For purposes of this supporting statement, the one-time burden annualized over the three-year approval period is 2.94 hours (8.83 / 3 = 2.943, rounded up to 3 hours).

<sup>26</sup> 61 firms x 20 hours = 1,220 hours. For purposes of this supporting statement, this one-time burden annualized over the three-year approval period is 406.67 hours (1,220 / 3 = 406.666, rounded up to 407), with an average hour burden of 6.67 hours per broker-dealer (406.67 / 61 = 6.666, rounded to 6.67).

<sup>27</sup> 17 CFR 240.15c3-3(f).

<sup>28</sup> This estimate is based on the number of firms that, as of December 31, 2019, indicated on line 4560 of Part II or Part II CSE of their FOCUS reports that they are subject to the Rule 15c3-3(k)(2)(i) exemption.

<sup>29</sup> (216 + 138) x 25% = 88.5, rounded up to 89 broker-dealers.

<sup>30</sup> The Commission notes that a broker-dealer will need to obtain a letter from its bank regarding its Special Reserve Bank Account because either the broker-dealer changed the type of business it does and became subject to paragraph (e)(3) or (k)(2)(i) of Rule 15c3-3 or the broker-dealer established a new Special Reserve Bank Account.

<sup>31</sup> The language in these letters is largely standardized.

<sup>32</sup> 89 broker-dealers x 1 hour = 89 hours.

Paragraph (f) of Rule 15c3-3 requires a broker-dealer to immediately notify the Commission and its DEA if it fails to make a required deposit in its Special Reserve Bank Account.<sup>33</sup> We anticipate broker-dealers will file approximately 15 such notices each year.<sup>34</sup> The Commission estimates that it will take a broker-dealer approximately 30 minutes to file the required notice, resulting in a total annual reporting burden of approximately 8 hours.<sup>35</sup>

Paragraph (j)(1) of Rule 15c3-3 includes a condition that a broker-dealer must establish adequate procedures that will impose a paperwork burden if a broker-dealer wishes to accept or use any free credit balance from the account of any customer of the broker-dealer. The requirement that broker-dealers establish adequate procedures with regard to free credit balances will result in one-time and annual hours burdens for broker-dealers subject to the requirements of paragraph (j)(1) to Rule 15c3-3 for the 161 broker-dealers that carry free credit balances.<sup>36</sup> Most firms already have such procedures in place. Therefore, the Commission estimates that a broker-dealer will spend approximately 10 hours per year reviewing and updating its procedures, for an annual recordkeeping burden of approximately 1,610 hours.<sup>37</sup>

Paragraph (j)(2) of Rule 15c3-3 requires a broker-dealer to obtain written affirmative consent from a new customer before including a customer's free credit balances in a Sweep Program, as defined in paragraph (a)(17), as well as to provide certain disclosures and notices to all customers with regard to the broker-dealer's Sweep Program. These requirements will result in one-time and annual burdens to broker-dealers subject to its provisions. However, these requirements apply only to firms that carry customer free credit balances and opt to have the ability to change how their customers' free credit balances are treated. The Commission is including all 161 broker-dealers that carry free credit balances in its estimate to reflect the fact that these firms may have to update their systems to comply with these requirements. The Commission further estimates that these firms will spend, on average, approximately 200 hours of employee resources per firm updating their current systems (including processes for generating customer account statements) to comply with the rule. Therefore, the Commission estimates that the total one-time recordkeeping burden to broker-dealers arising from this requirement will be approximately 32,200 hours, or approximately 10,733 hours per year on an annualized basis.<sup>38</sup>

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<sup>33</sup> 17 CFR 240.15c3-3(i).

<sup>34</sup> Broker-dealers filed 15 such notices with the Commission, on average, in 2018 and 2019.

<sup>35</sup> 15 notices x 0.5 hours = 7.5 hours rounded up to 8.

<sup>36</sup> This estimate is based on the number of firms that, as of December 31, 2019, had free credit balances on line 4340 of Part II or Part II CSE of their FOCUS reports.

<sup>37</sup> 161 broker-dealers x 10 hours = 1,610 hours.

<sup>38</sup> 161 broker-dealers x 200 hours per firm = 32,200 hours. For purposes of this supporting statement, this one-time burden annualized over the three-year approval period is approximately 10,733 hours (32,200 / 3 = 10,733.3333, rounded down to 10,733.), with an average hour burden per broker-dealer of approximately 66.67 hours (10,733.3333 / 161 broker-dealers = 66.6666667, rounded up to 66.67).

With respect to the annual burden associated with paragraph (j)(2) of Rule 15c3-3, the Commission estimates that there are 161,644,654 customer accounts<sup>39</sup> of which 5% (approximately 8,082,233) will be impacted each year.<sup>40</sup> This equates to an average of approximately 50,200 accounts per broker-dealer.<sup>41</sup> The Commission further estimates that a broker-dealer will spend, on average, four minutes of employee resources to process a written affirmative consent for new customers, as well as disclosures required under paragraph (j) to Rule 15c3-3. Therefore, the Commission estimates that the annual recordkeeping burden to broker-dealers<sup>42</sup> arising from the requirement will be approximately 538,816 hours.<sup>43</sup>

Paragraph (o)(2)(i) of Rule 15c3-3 requires a broker-dealer that effects transactions for customers in SFPs to provide each customer that engages in SFP transactions with a disclosure document containing certain information. The Commission estimates that 8% of the accounts held by broker-dealers that are also registered as FCMs, or 494,701 accounts, may engage in SFP transactions.<sup>44</sup> This equates to an average of approximately 3,072.7 accounts per broker-dealer.<sup>45</sup> The Commission estimates that it will take approximately 3 minutes to create each record.<sup>46</sup> Thus, the total annual disclosure burden associated with the requirements of paragraph (o)(2)(i) will be approximately 24,735 hours.<sup>47</sup>

Paragraph (o)(3) of Rule 15c3-3 requires a broker-dealer that effects transactions in SFPs for customers to make a record of each change in account type and to provide certain customers with disclosure documents containing certain information about SFP products.<sup>48</sup> The Commission estimates that broker-dealers that were also registered as futures commission

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<sup>39</sup> This estimate is based on the total number of public customer accounts listed on line 8080 of firms' FOCUS reports, as of December 2019.

<sup>40</sup> The Commission estimates approximately 8,082,233 accounts ( $161,644,654 \times 5\% = 8,082,232.7$ , rounded up to 8,082,233) will be impacted annually.

<sup>41</sup>  $8,082,233 \div 161 = 50,200.205$  rounded down to 50,200.

<sup>42</sup> This annual burden will affect the 161 broker-dealers that carry free credit balances.

<sup>43</sup>  $(8,082,233 \text{ accounts} \times 4 \text{ minutes per account}) / 60 \text{ minutes} = 538,815.53$ , rounded up to 538,816 hours. For purposes of this supporting statement, the Commission divided the total annual hour burden by 161 respondents for an average annual burden per firm of approximately 3,347 hours ( $538,815. / 161 = 3,346.677$ , rounded up to 3,347).

<sup>44</sup>  $6,183,764 \text{ accounts} \times 8\% = 494,701.12$ , rounded down to 494,701 accounts. The Commission derived its 8% estimate from the number of active options accounts and conversations with industry representatives.

<sup>45</sup>  $494,701 \div 161 = 3,072.67702$  rounded up to 3,072.7.

<sup>46</sup> The Commission estimates that most firms will have this process automated. To the extent that no person need be involved in the generation of this record, the burden will be very minimal.

<sup>47</sup>  $494,701 \text{ accounts} \times (3 \text{ minutes}/60 \text{ minutes}) = 24,735.05$  hours rounded down to 24,735.

<sup>48</sup> More specifically, a broker-dealer that changes the type of account in which a customer's SFPs are held must create a record of each change in account type that includes the name of the customer, the account number, the date the broker-dealer received the customer's request to change the account type, and the date the change in account type took place.

merchants (“FCMs”) maintained approximately 6,183,764 customer accounts.<sup>49</sup> The Commission estimates that 8% of these customers may engage in SFP transactions,<sup>50</sup> and that of that 8%, 20% per year may change account type, requiring a broker-dealer to promptly notify the customer in writing on the date that change became effective.<sup>51</sup> Thus, broker-dealers may be required to create these records for approximately 98,940 accounts.<sup>52</sup> This equates to an average of approximately 614.5 accounts per broker-dealer.<sup>53</sup> The Commission estimates that it will take approximately 3 minutes to create each record.<sup>54</sup> Thus, the total annual recordkeeping and disclosure burden associated with the requirements of paragraph (o)(3) will be approximately 4,947 hours.<sup>55</sup>

A broker-dealer that is determining whether a registered clearing or derivatives organization meets the requirements of Note G to Exhibit A to Rule 15c3-3 may not rely on the credit rating of that organization to determine whether the broker-dealer can keep customer’s positions in security future products with the organization for purposes of the reserve computation. Thus, broker-dealers that previously relied on ratings for the purposes of Note G use another method for assessing the creditworthiness of registered clearing or derivatives organizations. The Commission believes that approximately 35 broker-dealers will be required to change or update how they assess the creditworthiness of registered clearing or derivatives organizations under Note G.<sup>56</sup> The Commission believes that broker-dealers will spend approximately .25 hours determining whether a clearing or derivatives organization meets the requirements of Note G, resulting in an annual recordkeeping burden of approximately 9 hours.<sup>57</sup> The Commission further believes that broker-dealers will spend approximately one hour changing or reviewing their methods for determining whether a clearing or derivatives clearing organization meets the requirements of Note G, resulting in a one-time recordkeeping burden of

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<sup>49</sup> This estimate is based on the number of accounts that, as of December 2019, were listed on line 8080 of Schedule 1 of firms’ FOCUS reports provided that those firms also had a dollar amount greater than 0 listed on line 7465 of their Part II CSEs of their FOCUS reports.

<sup>50</sup>  $6,183,764 \text{ accounts} \times 8\% = 494,701.12$ , rounded to 494,701 accounts. The Commission derived its estimate from the number of active options accounts and conversations with industry representatives.

<sup>51</sup> Broker-dealers that engage in an SFP business may choose not to allow customers to change account type because it may be costly to facilitate such conversions. In addition, once a customer has researched the issue and made a choice as to account type, it may be unlikely for the customer to change his or her account type.

<sup>52</sup>  $494,701 \text{ accounts} \times 20\% = 98,940.2$ , rounded down to 98,940 accounts.

<sup>53</sup>  $98,940 \div 161 = 614.534$  rounded down to 614.5.

<sup>54</sup> The Commission estimates that most firms will have this process automated. To the extent that no person need be involved in the generation of this record, the burden will be very minimal.

<sup>55</sup>  $98,940 \text{ accounts} \times (3\text{min} / 60\text{min}) = 4,947 \text{ hours}$ .

<sup>56</sup> The number 35 comes from reviewing the members of the Options Clearing Corporation (“OCC”) listed in the member directory on the OCC’s website, *available at* <http://www.optionsclearing.com/membership/member-information/>. Of the list of 185 members, the Commission looked only at those who trade in single stock futures. Of the list of members that trade in single stock futures, the Commission deleted any members who had the exact same firm name but different firm numbers.

<sup>57</sup>  $35 \text{ broker-dealers} \times .25 \text{ hours} = 8.75 \text{ hours}$  rounded up to 9.

approximately 35 hours, or approximately 12 hours per year on an annualized basis.<sup>58</sup> The aggregate Note G related recordkeeping burden is thus approximately 21 hours per year (9+12).

Consequently, the Commission estimates that the total annual hour burden for these existing collections under Rule 15c3-3 is 625,490 hours.<sup>59</sup>

Summary of Hourly Burdens										
Name of Information Collection	Type of Burden	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
Rule 15c3-3(e)(3) – daily computations	Recordkeeping	12	250	0.00	0.00	2.50	2.50	625.00	7,500	0
Rule 15c3-3(e)(3) – weekly computations	Recordkeeping	163	52	0.00	0.00	2.50	2.50	130.00	21,190	0
Rule 15c3-3(e)(3) monthly computations	Recordkeeping	41	12	0.00	0.00	2.50	2.50	30.00	1,230	5
Rule 15c3-3(e) - updates	Recordkeeping	31	1	30.00	10.00	0.00	10.00	10.00	310	0
Rule 15c3-3(e) – weekly computations	Recordkeeping	56	52	0.00	0.00	2.50	2.50	130.00	7,280	0
Rule 15c3-3(e) - monthly computations	Recordkeeping	2	12	0.00	0.00	2.50	2.50	30.00	60	0
Rule 15c3-3(e) - daily computations	Recordkeeping	3	250	0.00	0.00	2.50	2.50	625.00	1,875	0
Rule 15c3-3(a)(16)	Recordkeeping	61	11	20.00	6.666	0.00	6.666	73.00	4,473	0
Rule 15c3-3(b)(5) – drafting/updating notice	Recordkeeping	61	1	10.00	3.33	0.00	3.33	3.33	203	0
Rule 15c3-3(b)(5) – notices to affected customers	Third-Party	61	0.87	0.17	0.0566	0.00	0.0566	0.0566	3	0
Rule 15c3-3(b)(5) – amend/update agreement	Recordkeeping	61	1	20.00	6.67	0.00	6.67	6.67	407	0
Rule 15c3-3(f) - obtain new letter	Recordkeeping	354	0.25	0.00	0.00	1.00	1.00	1.00	89	0
Rule 15c3-3(f) - notice	Reporting	354	0.04237	0.00	0.00	0.50	0.50	0.50	8	0
Rule 15c3-3(j)(1) - annual	Recordkeeping	161	1	0	0.00	10.00	10.00	10.00	1,610	5
Rule 15c3-3(j)(2) - initial	Recordkeeping	161	1	200.00	66.6666667	0.00	66.6666667	66.6666667	10,733	0
Rule 15c3-3(j)(2) - annual	Recordkeeping	161	50,200.205	0.00	0.00	0.066666666	0.066666666	0.066666666	538,816	0
Rule 15c3-3(o)(2)(i)	Third-Party	161	3,072.677	0.00	0.00	0.05	0.05	0.05	24,735	0
Rule 15c3-3(o)(3)	Third-Party	161	614.534	0.00	0.00	0.05	0.05	0.05	4,947	0
Rule 15c3-3, Note G (annual)	Recordkeeping	35	1			0.25	0.25	0.25	9	0
Rule 15c3-3, Note G (initial)	Recordkeeping	35		1.00	0.333		0.333	0.333	12	
<b>TOTAL HOURLY BURDEN FOR ALL RESPONDENTS</b>									<b>625,490</b>	

<sup>58</sup> 35 broker-dealers x 1 hour = 35 hours.  $35 \div 3 = 11.667$  rounded up to 12. The average hour burden per broker-dealer is approximately 333 hours ( $11.67/35$  broker-dealers = .333). The staff believes that broker-dealers will be subject to a one-time cost associated with reviewing the standards a broker-dealer uses to determine whether a registered clearing or derivatives organization meets the requirements of Note G.

<sup>59</sup> 7,500 hours + 21,190 hours + 1,230 hours + 310 hours + 7,280 hours + 60 hours + 1,875 hours + 4,473 hours + 203 hours + 3 hours + 407 hours + 89 hours + 8 hours + 1,610 hours + 10,733 hours + 538,816 hours + 24,735 hours + 4,947 hours + 9 hours + 12 hours = 625,490 hours.

## Hour Burdens Associated with 2019 Amendments

As discussed above, on June 21, 2019, the Commission added paragraph (p) to Rule 15c3-3. Paragraph (p) of Rule 15c3-3, as amended, establishes segregation requirements for registered broker-dealers and broker-dealer SBSBs with respect to their security-based swap activities and notifications requirements for broker-dealers that are either SBSBs or MSBSPs.

The amendments to Rule 15c3-3 added three new collections of information with recordkeeping burdens and five new collections of information with third-party disclosure burdens. The new collections of information are summarized in the chart below and explained in the following discussion.

Summary of Hourly Burdens										
Name of Information Collection	Type of Burden	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
NEW Rule 15c3-3(p)(1) (Special Accounts)	Recordkeeping	41	6	30.00	10.00	0.00	10.00	60.00	2,460	0
NEW Rule 15c3-3(p)(1) (Special Accounts)	Recordkeeping	10	3	0.00	0.00	30.00	30.00	90.00	900	0
NEW Rule 15c3-3(p)(3)(iii) (Customer Reserve Computation)	Recordkeeping	41	52	0.00	0.00	2.50	2.50	130.00	5,330	0
NEW Rule 15c3-3(p)(4)(i) (Counterparty Notice)	Third-Party	17	1,000	0.16666667	0.05555556	0.00	0.05555556	55.55	944	0
NEW Rule 15c3-3(p)(4)(i) (Counterparty Notice)	Third Party	17	200	0.00	0.00	0.16666667	0.16666667	33.35	567	0
NEW Rule 15c3-3(p)(4)(ii) (Subordination Agreements)	Third-Party	16	1	200.00	66.67	0.00	66.67	66.67	1,067	0
NEW Rule 15c3-3(p)(4)(ii) (Subordination Agreements)	Third-Party	16	500	20.00	6.66666667	0.00	6.66666667	3,333.3	53,333	0
NEW Rule 15c3-3(p)(4)(ii) (Subordination Agreements)	Third-Party	16	100	0.00	0.00	20.00	20.00	2,000.00	32,000	0
<b>TOTAL HOURLY BURDEN FOR ALL RESPONDENTS</b>									96,601	

### Special Accounts (Rule 15c3-3(p)(1))

SBSBs are required to establish special accounts with banks and obtain written acknowledgements from, and enter into written contracts with, the banks. These special accounts include: (1) the qualified clearing agency account;<sup>60</sup> (2) the qualified SBSB account;<sup>61</sup> and (3) the special account for the exclusive benefit of security-based swap customers.<sup>62</sup> Based

<sup>60</sup> Paragraph (p) (1)(iii) of Rule 15c3-3, as amended.

<sup>61</sup> Paragraph (p) (1) (iv) of Rule 15c3-3, as amended.

<sup>62</sup> Paragraph (p)(1)(vii) of Rule 15c3-3, as amended.

on staff experience with Rule 15c3-3, the Commission staff estimates that there are 16 broker-dealer SBSBs, 25 broker-dealers engaged in security-based swap activities but not required to register as an SBSB or MSBSP, and 1 broker-dealer MSBSP. Staff further estimates that each of the 16 broker-dealer SBSBs and 25 broker-dealers establishes 6 special accounts at banks (2 for each type of special account). Further, based on staff experience with Rule 15c3-3, the Commission staff estimates that each SBSB and broker-dealer will spend approximately 30 hours to draft and obtain the written acknowledgement and agreement for each account. These estimates result in an industry-wide one-time hour burden of approximately 7,380 hours, or approximately 2,460 hours per year on an annualized basis.<sup>63</sup>

The Commission staff estimates that 25 percent<sup>64</sup> of the 16 broker-dealer SBSBs and 25 broker-dealers (a total of approximately 10) will establish a new special account each year because, for example, they change their banking relationship, for each type of special account. Therefore, the Commission staff estimates an industry-wide ongoing annual hour burden of approximately 900 recordkeeping hours.<sup>65</sup>

#### Customer Reserve Computation (Rule 15c3-3(p)(3)(iii))

Paragraph (p)(3) of Rule 15c3-3 requires broker-dealer SBSBs and broker-dealers engaged in security-based swap activities to maintain a special account for the exclusive benefit of security-based swap customers and have on deposit in the account at all times an amount of cash and/or qualified securities determined through a computation using the formula in Exhibit B to Rule 15c3-3. Paragraph (p)(3)(iii) of Rule 15c3-3 provides that the computations necessary to determine the amount required to be maintained in the special bank account must be made on a weekly basis.<sup>66</sup> Variation in size and complexity between these SBSBs and broker-dealers makes it very difficult to develop a meaningful figure for the amount of time required to calculate each reserve computation. Based on experience with the Rule 15c3-3 reserve computation PRA burden hours and with the OTC derivatives industry, the Commission staff estimates that it will take between 1 and 5 hours to compute each reserve computation, and that the average time spent across all the broker-dealer SBSBs will be approximately 2.5 hours.

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<sup>63</sup> (16 broker-dealer SBSBs + 25 broker-dealers engaged in security-based swap activities but not required to register as an SBSB or MSBSP) x 6 special accounts x 30 hours = 7,380 hours. For purposes of this supporting statement, this one-time burden annualized over the three-year approval period is 2,460 hours (7,380 / 3 = 2,460), with an average hour burden per respondent of 60 hours (2,460 / 41 respondents = 60).

<sup>64</sup> This number is based on the currently approved PRA collection for Rule 15c3-3. See Commission, *Supporting Statement for the Paperwork Reduction Act Information Collection Submission for Rule 15c3-3*.

<sup>65</sup> 10 broker-dealer SBSBs x 3 types of special accounts x 30 hours = 900 hours.

<sup>66</sup> A commenter requested that the Commission require a weekly SBS Customer Reserve Account computation rather than a daily computation. The commenter stated that calculating the reserve account formula is an onerous process that is operationally intensive and requires a significant commitment of resources. The commenter further stated that the Commission can achieve its objective of decreasing liquidity pressures on SBSBs while limiting operational burdens by requiring weekly computations and permitting daily computations. See Letter from Kenneth E. Bentsen, Jr., Executive Vice President, Securities Industry and Financial Markets Association (Feb. 22, 2013). In response to comments, the Commission modified its final rules to require a weekly SBS Customer Reserve Account computation. The final rules further provide that stand-alone broker-dealers or SBSBs may perform daily computations if they choose to do so.

Accordingly, the Commission staff estimates that the resulting annual recordkeeping hour burden for paragraph (p)(3)(iii) of Rule 15c3-3 is approximately 5,330 hours.<sup>67</sup>

#### Counterparty Notice (Rule 15c3-3(p)(4)(i))

Paragraph (p)(4)(i) of Rule 15c3-3 requires that broker-dealer SBSDs and broker-dealer MSBSPs are required to provide a notice to a counterparty pursuant to section 3E(f) of the Exchange Act prior to the execution of the first non-cleared security-based swap transaction with the counterparty occurring after the compliance date of the new rule.<sup>68</sup> The number of notices sent in the first year the rule is effective will depend on the number of counterparties with which each broker-dealer SBSD or broker-dealer MSBSP engages in security-based swap transactions. The number of counterparties an SBSD and MSBSP has will vary depending on the size and complexity of the firm and its operations. The Commission staff estimates that each of the 16 broker-dealer SBSDs and 1 broker-dealer MSBSP would have approximately 1,000 counterparties at any given time.<sup>69</sup> Therefore, the Commission staff estimates that approximately 17,000 notices will be sent in the first year the rule is effective.<sup>70</sup> The Commission staff estimates that each of the 16 broker-dealer SBSDs and 1 broker-dealer MSBSP will spend approximately 10 minutes sending out the notice. These estimates result in an industry-wide one-time third-party hour burden of approximately 2,834 hours, or approximately 944<sup>71</sup> hours per year on an annualized basis.<sup>72</sup>

The Commission staff further estimates that the 16 broker-dealer SBSDs and 1 broker-dealer MSBSP will establish account relationships with 200 new counterparties per year. Therefore, the Commission staff estimates that approximately 3,400 notices will be sent annually.<sup>73</sup> These estimates result in an industry-wide annual third-party hour burden of approximately 567 hours.<sup>74</sup>

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<sup>67</sup> (16 broker-dealer SBSDs + 25 broker-dealers engaged in security-based swap activities but not required to register as an SBSD or MSBSP) x 52 weeks x 2.5 hours/week = 5,330 hours.

<sup>68</sup> See paragraph (p)(4)(i) of Rule 15c3-3, as amended.

<sup>69</sup> The Commission previously estimated that there are approximately 10,900 market participants in security-based swap transactions. See *Business Conduct Release*, 81 FR at 30089. Based on the 10,900 market participants and Commission staff experience relative to the securities and OTC derivatives industry, the Commission staff estimates that each broker-dealer SBSD and MSBSP will have 1,000 counterparties at any given time. The number of counterparties may widely vary depending on the size of the SBSD or MSBSP. A large firm may have thousands of counterparties at one time, while a smaller firm may have substantially less than 1,000. The Commission staff also estimates, based on staff experience, that these entities will establish account relationships with approximately 200 new counterparties a year, or approximately 20 percent of a firm's existing counterparties.

<sup>70</sup> (16 broker-dealer SBSDs + 1 broker-dealer MSBSP) x 1,000 counterparties = 17,000 notices.

<sup>71</sup> 944.4 rounded down to 944.

<sup>72</sup> (17,000 notices x 10 minutes) / 60 minutes = 2,833.33 hours. For purposes of this supporting statement, this one-time burden annualized over the three-year approval period is approximately 944 hours (2,833.33 / 3 = 944.443, rounded down to 944), with an average hour burden per respondent of approximately 55.55 hours (944.44 / 17 respondents = 55.555)..

<sup>73</sup> (16 broker-dealer SBSDs + 1 broker-dealer MSBSP) x 200 counterparties = 3,400 notices.

<sup>74</sup> (3,400 notices x 10 minutes) / 60 minutes = 566.67 hours, rounded to 567 hours.

### Subordination Agreements (Rule 15c3-3(p)(4)(ii))

Under paragraph (p)(4)(ii) of Rule 15c3-3, a broker-dealer SBSB is required to obtain agreements from counterparties that do not choose to require segregation of funds or other property pursuant to Section 3E(f) of the Exchange Act or paragraph (p)(3)(iii) of Rule 15c3-3, as amended, in which the counterparty agrees to subordinate all of its claims against the broker-dealer to the claims of customers and security-based swap customers of the broker-dealer.<sup>75</sup> The Commission staff estimates that a broker-dealer SBSB will spend, on average, approximately 200 hours to draft and prepare standard subordination agreements. These estimates result in an industry-wide one-time third-party hour burden of approximately 3,200 hours, or approximately 1,067 hours per year on an annualized basis.<sup>76</sup>

As discussed above, the Commission staff estimates that each of the 16 broker-dealer SBSBs would have approximately 1,000 counterparties at any given time. The Commission staff further estimates that approximately 50 percent of these counterparties will either elect individual segregation or waive segregation altogether.<sup>77</sup> The Commission staff estimates that a broker-dealer SBSB will spend 20 hours per counterparty to enter into a written subordination agreement. These estimates result in an industry-wide one-time hour burden of approximately 160,000 hours, or approximately 53,333 hours per year on an annualized basis.<sup>78</sup>

Further, as discussed above, the Commission staff estimates that each of the 16 broker-dealer SBSBs will establish account relationships with 200 new counterparties per year. The Commission staff further estimates that 50 percent or 100 of these counterparties will either elect individual segregation or waive segregation altogether. These estimates result in an industry-wide annual third-party hour burden of approximately 32,000 hours.<sup>79</sup>

Consequently, the Commission estimates that the total annual hour burden for these collections associated with the 2019 amendments under Rule 15c3-3 is 96,601 hours.<sup>80</sup>

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<sup>75</sup> See paragraph (p)(4)(ii) of Rule 15c3-3, as amended.

<sup>76</sup> 200 hours x 16 broker-dealer SBSBs = 3,200 hours. For purposes of this supporting statement, this one-time burden annualized over the three-year approval period is approximately 1,067 hours per year (3,200/3 = 1,066.66667, rounded up to 1,067), with an average hour burden per broker-dealer SBSB of approximately 66.67 hours (1,066.67 / 16 broker-dealer SBSBs = 66.667, rounded to 66.67).

<sup>77</sup> Based on discussions with market participants, the Commission staff understands that many large buy-side financial end users currently ask for individual segregation and the Commission staff assumes that many of these end users will continue to do so. However, Commission staff believes that some smaller end users may not choose to incur additional cost that may come with individual segregation. Therefore, the Commission staff estimates that approximately 50 percent of counterparties will either elect individual segregation or waiver segregation altogether.

<sup>78</sup> 16 broker-dealer SBSBs x 500 counterparties x 20 hours = 160,000 hours. For purposes of this supporting statement, this one-time burden annualized over the three-year approval period is approximately 53,333 hours (160,000/3 = 53,333.33 rounded down to 53,333), with an average hour burden per broker-dealer SBSB of approximately 3,333.33 hours (53,333.33 / 16 broker-dealer SBSBs = 3,333.33).

<sup>79</sup> 16 broker-dealer SBSBs x 100 counterparties x 20 hours = 32,000 hours.

<sup>80</sup> 2,460 hours + 900 hours + 5,330 hours + 944 hours + 567 hours + 1,067 hours + 53,333 hours + 32,000

### 13. Costs to Respondents

The Commission estimates that the aggregate annual cost burden associated with Rule 15c3-3 is approximately \$1,505,847 calculated as described below.<sup>81</sup>

#### Existing Cost Burdens

Paragraph (b)(5) of Rule 15c3-3 will require a broker-dealer to incur postage costs when sending out the required written notice to customers. The Commission estimates that there are approximately 1,056 existing PAB customers and approximately 5% of those customers will be affected by this requirement as they have not yet received the required written notice from their broker-dealer.<sup>82</sup> Therefore, broker-dealers will have to send approximately 53 written notices. These carrying broker-dealers will likely use the least expensive method to comply with this requirement and may include this notification with other mailings sent to PAB account holders. The Commission, however, conservatively estimates that the postage cost of each notification, using the current price of first class postage, will be approximately \$0.55 per document sent. Therefore, the Commission estimates that the total one-time third party disclosure cost associated with sending the required written notification to PAB account holders will be approximately \$29.15, or approximately \$10 per year on an annualized basis.<sup>83</sup>

Additionally, the Commission estimates that the 61 broker-dealers carrying PAB accounts likely will engage outside counsel to review the required notice, as well as the standard PAB template agreement under the final rule amendments to Rule 15c3-3. As a result, the Commission estimates that each of these 61 broker-dealers will likely incur approximately \$2,000 in one-time legal costs,<sup>84</sup> for a total one-time recordkeeping cost to the industry of approximately \$122,000, or approximately \$40,667 per year on an annualized basis,<sup>85</sup> to review and comment on these materials.

The Commission also estimates that broker-dealers will consult with outside counsel in making system changes, particularly with respect to the language in the disclosures and notices under paragraph (j)(2) to Rule 15c3-3 related to the treatment of free credit balances. As a result, the Commission estimates that the average one-time recordkeeping cost to a broker-dealer will

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hours = 96,601 hours.

<sup>81</sup> \$1,440,513 + \$65,334 = \$1,505,847.

<sup>82</sup> 1,056 PAB account holders x 5% = 52.8 PAB account holders, rounded to 53 PAB account holders.

<sup>83</sup> 53 notices x \$0.55 = \$29.15, or about \$9.72 annualized over three years rounded up to 10.

<sup>84</sup> 5 hours x \$400 per hour = \$2,000. The Commission estimates the review of the notice and standard PAB template will require 5 hours of outside counsel time, which is the same estimate used for outside counsel review in another recent release. Based on Commission experience with the PAIB Letter and the application of Rule 15c3-3, the Commission estimates the outside counsel review related to the PAB amendments will take a comparable amount of time.

<sup>85</sup> 61 firms x \$2,000 legal cost = \$122,000. This is \$40,666.67 on an annualized basis ( $\$122,000 / 3 = \$40,666.666$ , rounded to \$40,667).

be approximately \$20,000<sup>86</sup> and the average one-time recordkeeping cost to all broker-dealers will be approximately \$3,220,000, or approximately \$1,073,333 per year on an annualized basis.<sup>87</sup>

Rule 15c3-3(o)(2)(i) requires a broker-dealer that effects transactions for customers in SFPs to provide each customer that engages in SFP transactions with a disclosure document containing certain information. The costs of printing and sending the disclosure document to customers will be based on the number of customer accounts that will be opened by customers to effect transactions in SFPs. As applied in section 12 above, the Commission estimates that 8% of the accounts held by broker-dealers that are also registered as FCMs, or 494,701 accounts, may engage in SFP transactions.<sup>88</sup> This equates to an average of approximately 3,072.7 accounts per broker-dealer.<sup>89</sup> The Commission also estimates that the cost of printing and sending each disclosure document will be approximately \$.55 per document sent, based on the price of first class postage. Therefore, the Commission estimates that the annual recordkeeping and disclosure cost burden associated with this rule requirement is approximately \$272,086.<sup>90</sup>

Rule 15c3-3(o)(3)(ii) requires a broker-dealer that changes the type of account in which a customer's SFPs are held to promptly notify the customer in writing of the date that change became effective. The Commission estimates that 98,940 accounts<sup>91</sup> may change account type per year, thus broker-dealers will be required to send this notification to 98,940 customers. This equates to an average of approximately 614.5 accounts per broker-dealer.<sup>92</sup> The Commission notes that firms will likely use the least expensive method to comply with these requirements, and may include this notification with other mailings, such as customer account statements, sent to the customer. Therefore, the Commission estimates that the cost of printing and posting each notification will be approximately \$.55 per document sent, resulting in an annual recordkeeping and disclosure burden of approximately \$54,417.<sup>93</sup>

Consequently, the Commission estimates that the total annual cost associated with these existing collections under Rule 15c3-3 is approximately \$1,440,513.<sup>94</sup>

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<sup>86</sup> \$400 per hour x 50 hours = \$20,000. The Commission estimates that the average hourly cost for an outside counsel will be approximately \$400 per hour. The Commission used the estimate of \$400 per hour for legal services provided by outside counsel, which is the same estimate used by the Commission in other recent releases.

<sup>87</sup> 161 broker-dealers x \$20,000 = \$3,220,000, or \$1,073,333.33 annualized over three years rounded down to \$1,073,333.

<sup>88</sup> 6,183,764 accounts x 8% = 494,701.12, rounded to 494,701 accounts. The Commission derived its 8% estimate from the number of active options accounts and conversations with industry representatives.

<sup>89</sup> 494,701 ÷ 161 = 3,072.67702 rounded up to 3,072.7.

<sup>90</sup> 494,701 accounts x \$.55 = \$272,085.55 rounded up to \$272,086.

<sup>91</sup> 494,701 accounts x 20% = 98,940.2 accounts, rounded to 98,940 accounts.

<sup>92</sup> 98,940 ÷ 161 = 614.534 rounded down to 614.5.

<sup>93</sup> 98,940 accounts x \$.55 = \$54,417.

<sup>94</sup> \$10 + \$40,667 + \$1,073,333 + \$272,086 + \$54,417 = \$1,440,513

Summary of Dollar Costs										
Name of Information Collection	Type of Burden	Number of Entities Impacted	Annual Responses per Entity	Initial Cost per Entity per Response	Initial Cost Annualized per Entity per Response	Ongoing Cost per Entity per Response	Annual Cost Per Entity per Response	Total Annual Cost Per Entity	Total Industry Cost	Small Business Entities Affected
Rule 15c3-3(b)(5)	Third-party disclosure	61	0.87	\$0.55	\$0.18	0	\$0.18	\$0.18	\$10	0
Rule 15c3-3(b)(5)	Recordkeeping	61	1	\$2,000.00	\$666.67	0	\$666.67	\$666.67	\$40,667	0
Rule 15c3-3(j)(2)	Recordkeeping	161	1	\$20,000.00	\$6,666.67	0	\$6,666.67	\$6,666.67	\$1,073,333	0
Rule 15c3-3(o)(2)(i)	Third-party disclosure	161	3,072.68	\$0.00	\$0.00	\$0.55	\$0.55	\$0.55	\$272,086	0
Rule 15c3-3(o)(3)(ii)	Third-party disclosure	161	614.534	\$0.00	\$0.00	\$0.55	\$0.55	\$0.55	\$54,417	0
<b>TOTAL COST FOR ALL RESPONDENTS</b>									<b>\$1,440,513</b>	

### **Cost Burdens Associated with 2019 Amendments**

The amendments to Rule 15c3-3 added two new collections of information with third-party disclosure cost burdens. The new collections of information are summarized in the chart below and explained in the following discussion.

Summary of Dollar Costs										
Name of Information Collection	Type of Burden	Number of Entities Impacted	Annual Responses per Entity	Initial Cost per Entity per Response	Initial Cost Annualized per Entity per Response	Ongoing Cost per Entity per Response	Annual Cost Per Entity per Response	Total Annual Cost Per Entity	Total Industry Cost	Small Business Entities Affected
NEW Rule 15c3-3(p)(4)(i) (Counterparty Notice)	Third-Party	17	1	\$4,000.00	\$1,333.33	0	\$1,333.33	\$1,333.33	\$22,667	0
NEW Rule 15c3-3(p)(4)(ii) (Subordination Agreements)	Third-Party	16	1	\$8,000.00	\$2,666.67	0	\$2,666.67	\$2,666.67	\$42,667	0
<b>TOTAL COST FOR ALL RESPONDENTS</b>									<b>\$65,334</b>	

### **Counterparty Notice (Rule 15c3-3(p)(4)(i))**

Paragraph (p)(4)(i) of Rule 15c3-3, as amended, requires that broker-dealer SBSBs and broker-dealer MSBSPs are required to provide a notice to a counterparty pursuant to section 3E(f) of the Exchange Act prior to the execution of the first non-cleared security-based swap transaction with the counterparty occurring after the compliance date of the new rule.<sup>95</sup> All broker-dealer SBSBs and broker-dealer MSBSPs are required to provide these notices to their counterparties. The Commission staff estimates that the 16 broker-dealer SBSBs and 1 broker-dealer MSBSP will engage outside counsel to draft and review the notice at a cost of \$400 per hour for an average of 10 hours per respondent. These estimates result in a one-time third-party cost burden of approximately \$68,000 for all of these 17 entities, or approximately \$22,667 per

<sup>95</sup> See paragraph (p)(4)(i) of Rule 15c3-3, as amended.

year on an annualized basis.<sup>96</sup>

#### Subordination Agreements (Rule 15c3-3(p)(4)(ii))

Under paragraph (p)(4)(ii) of Rule 15c3-3, a broker-dealer SBSB is required to obtain agreements from counterparties that do not choose to require segregation of funds or other property pursuant to Section 3E(f) of the Exchange Act or paragraph (p)(3)(iii) of Rule 15c3-3, as amended, in which the counterparty agrees to subordinate all of its claims against the broker-dealer to the claims of customers and security-based swap customers of the broker-dealer.<sup>97</sup> Because the broker-dealer SBSB will enter into these agreements with security-based swap customers after the broker-dealer SBSB prepares a standard subordination agreement in-house, the Commission staff also estimates that a broker-dealer SBSB will have outside counsel review the standard subordination agreements and that the review will take approximately 20 hours at a cost of approximately \$400 per hour. As a result, the Commission staff estimates that each broker-dealer SBSB will incur one-time third-party costs of approximately \$8,000.<sup>98</sup> These estimates result in an industry-wide one-time third-party cost of approximately \$128,000, or approximately \$42,667 per year on an annualized basis.<sup>99</sup>

Consequently, the Commission estimates that the total annual cost burden for these collections associated with the 2019 amendments under Rule 15c3-3 is \$65,334 (\$22,667 + \$42,667).

#### **14. Costs to Federal Government**

The staff does not anticipate this information collection to impose additional costs to the Federal Government.

#### **15. Changes in Burden**

As specified in the chart below, changes in burden are due to a variety of factors including a change in the number of broker-dealers and customer accounts subject to particular burdens, amortization of certain one-time burdens not previously annualized over three years, and the addition of new burdens associated with the 2019 amendments to Rule 15c3-3.

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<sup>96</sup> (16 broker-dealer SBSBs + 1 broker-dealer MSBSP) x \$400 per hour x 10 hours = \$68,000. The Commission expects that these functions will likely be performed by outside counsel with an expertise in financial services law to help ensure that counterparties are receiving the proper notice under the statutory requirement. The Commission is annualizing the one-time costs over the three year approval period to reflect an annualized cost of approximately \$22,667 per year ( $\$68,000/3 = \$22,666.667$ , rounded up to \$22,667), or approximately \$1,333.33 per respondent ( $\$22,666.667/17 = \$1,333.333$ ).

<sup>97</sup> See paragraph (p)(4)(ii) of Rule 15c3-3, as amended.

<sup>98</sup>  $\$400 \times 20 \text{ hours} = \$8,000$ .

<sup>99</sup>  $\$8,000 \times 16 \text{ broker-dealer SBSBs} = \$128,000$ . The Commission is annualizing the one-time costs over the three year approval period to reflect an annualized cost of \$42,666.67 per year ( $\$128,000/3 = \$42,666.667$ , rounded up to \$42,667), or approximately \$2,666.67 per respondent ( $\$42,666.67/16 = \$2,666.667$ , rounded to \$2,666.67).

<b>Name of Information Collection</b>	<b>Annual Industry Burden</b>	<b>Annual Industry Burden Previously Reviewed</b>	<b>Change in Burden</b>	<b>Reason for Change</b>
Rule 15c3-3(e)(3) – weekly computations – Hour Burden	21,190	21,060	130	Based on updated numbers as of December 31, 2019, (1) additional broker-dealer performing a weekly computation pursuant to Rule 15c3-3(e)(3).
Rule 15c3-3(e)(3) monthly computations – Hour Burden	1,230	1,500	(270)	Based on updated numbers as of December 31, 2019, (9) fewer broker-dealers performing a monthly computation pursuant to Rule 15c3-3(e)(3).
Rule 15c3-3(e) - updates - Hour Burden	310	930	(620)	No change in one-time burden, but previously reported burden had not been annualized over three years.
Rule 15c3-3(e) – weekly computations – Hour Burden	7,280	7,410	(130)	Based on updated numbers as of December 31, 2019, (1) less broker-dealer subject to this burden.
Rule 15c3-3(a)(16) – Hour Burden	4,473	4,547	(74)	Based on updated numbers as of December 31, 2019, (1) less broker-dealer subject to this burden.
Rule 15c3-3(b)(5) – drafting/updating notice – Hour Burden	203	206	(3)	Based on updated numbers as of December 31, 2019, (1) less broker-dealer subject to this burden.
Rule 15c3-3(b)(5) – notices to affected customers – Hour Burden	3	3	0	Based on updated numbers as of December 31, 2019, (1) less broker-dealer subject to this burden, but there are additional PAB customers.
Rule 15c3-3(b)(5) – amend/update agreement – Hour Burden	407	414	(7)	Based on updated numbers as of December 31, 2019, (1) less broker-dealer subject to this burden.
Rule 15c3-3(f) - obtain new letter – Hour Burden	89	87	2	Based on updated numbers as of December 31, 2019, (8) additional broker-dealers subject to this burden.
Rule 15c3-3(f) – notice – Hour Burden	8	15	(7)	Based on updated numbers as of December 31, 2019, fewer such notices are being filed with the Commission.
Rule 15c3-3(j)(1) –	1,610	1,590	20	Based on updated numbers as of December 31, 2019, (2)

annual – Hour Burden				additional broker-dealers subject to this burden.
Rule 15c3-3(j)(2) - initial – Hour Burden	10,733	10,600	133	Based on updated numbers as of December 31, 2019, (2) additional broker-dealers subject to this burden.
Rule 15c3-3(j)(2) – annual – Hour Burden	538,816	421,520	117,296	Based on updated numbers as of December 31, 2019, (2) additional broker-dealers subject to this burden, and additional customer accounts that would require this notice.
Rule 15c3-3(o)(2)(i) – Hour Burden	24,735	63,531	(38,796)	Based on updated numbers as of December 31, 2019, (2) additional broker-dealers subject to this burden, but overall fewer accounts that would require this notice.
Rule 15c3-3(o)(2)(i) – Hour Burden	4,947	12,706	(7,759)	Based on updated numbers as of December 31, 2019, (2) additional broker-dealers subject to this burden, but fewer accounts overall that would require this notice.
Rule 15c3-3, Note G – Hour Burden	21	42	(21)	Based on updated 2020 numbers, fewer broker-dealers that were listed as members of the OCC who only trade in single stock futures.
Rule 15c3-3(p)(1) (Special Accounts) – Hour Burden	2 distinct hour burdens as shown in the summary chart above, totaling 3,360 (2,460+900)	0	3,360	Burden proposed in the information collection for Rule 18a-4 (OMB No. 3235-0700), but based on comments received, burden has been moved to Rule 15c3-3.
Rule 15c3-3(p)(3)(iii) (Customer Reserve Computation) – Hour Burden	5,330.00	0	5,330.00	Burden proposed in the information collection for Rule 18a-4 (OMB No. 3235-0700), but based on comments received, burden has been moved to Rule 15c3-3. Furthermore, provision altered to require weekly rather than daily customer reserve calculation (and burden therefore reduced) based on comments received.
Rule 15c3-3(p)(4)(i) (Counterparty Notice) – Hour Burden	2 distinct hour burdens, as shown in the summary chart above, totaling 1,511 (944+567)	0	1,511	Burden proposed in the information collection for Rule 18a-4 (OMB No. 3235-0700), but based on comments received, burden has been moved to Rule 15c3-3.
Rule 15c3-3(p)(4)(ii) (Subordination)	3 distinct hour burdens, as shown in the summary	0	86,400	Burden proposed in the information collection for

Agreements) – Hour Burden	chart above, totaling 86,400 (1,067+53,333+32,000)			Rule 18a-4 (OMB No. 3235-0700), but based on comments received, burden has been moved to Rule 15c3-3.
Rule 15c3-3(b)(5) – Cost Burden (Third Party disclosure)	\$10	\$8	\$2	Based on updated numbers as of December 31, 2019, (1) less broker-dealer subject to this burden, but the number of PAB customers who need such notice has increased and cost of postage has increased.
Rule 15c3-3(b)(5) – Cost Burden (Recordkeeping)	\$40,667	\$41,334	(\$667)	Based on updated numbers as of December 31, 2019, (1) less broker-dealer subject to this burden.
Rule 15c3-3(j)(2) – Cost Burden	\$1,073,333	\$1,060,000	\$13,333	Based on updated numbers as of December 31, 2019, (2) additional broker-dealers subject to this burden.
Rule 15c3-3(o)(2)(i) - Cost Burden	\$272,086	\$622,602	(\$350,516)	Based on updated numbers as of December 31, 2019, (2) additional broker-dealers subject to this burden, but fewer accounts subject to the notice, and cost of postage has increased.
Rule 15c3-3(o)(3)(ii) - Cost Burden	\$54,417	\$124,520	(\$70,103)	Based on updated numbers as of December 31, 2019, (2) additional broker-dealers subject to this burden, but fewer accounts subject to the notice, and cost of postage has increased.
Rule 15c3-3(p)(4)(i) (Counterparty Notice) – Cost Burden	\$22,667	0	\$22,667	Burden proposed in the information collection for Rule 18a-4 (OMB No. 3235-0700), but based on comments received, burden has been moved to Rule 15c3-3.
Rule 15c3-3(p)(4)(ii) (Subordination Agreements) – Cost Burden	\$42,667	0	\$42,667	Burden proposed in the information collection for Rule 18a-4 (OMB No. 3235-0700), but based on comments received, burden has been moved to Rule 15c3-3.

**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.