

SUPPORTING STATEMENT
For the Paperwork Reduction Act New Information Collection Submission for
Rule 15c2-11
OMB Control No. 3235-0202

A. Justification

1. Necessity of Information Collection

On September 13, 1971,¹ the Commission adopted Rule 15c2-11 (17 CFR 240.15c2-11) (the “Rule”) under the Securities Exchange Act of 1934² (the “Exchange Act”) to regulate the initiation or resumption of quotations in a quotation medium by a broker-dealer for over-the-counter (“OTC”) securities.³ The Rule is intended to prevent broker-dealers from initiating or resuming quotations for OTC securities that may facilitate a fraudulent or manipulative scheme. Subject to certain exceptions, the Rule prohibits broker-dealers from publishing a quotation for a security, or submitting a quotation for publication, in a quotation medium unless they have reviewed and documented specified information concerning the security and the issuer, as further described below.⁴ This information review requirement is the only information collection associated with the Rule, and is intended to prompt a broker-dealer to give some measure of attention to financial and other information about an issuer before it initiates or resumes quotations for that issuer’s securities.

The Commission is statutorily authorized by Section 15(c)(2) of the Exchange Act, 15 U.S.C. 78o(c)(2), to adopt rules and regulations that define and prescribe means reasonably designed to prevent such acts and practices as are fraudulent, deceptive, or manipulative. Further statutory authority is found in Section 23(a) of the Exchange Act, 15 U.S.C. 78w.

¹ Initiation or Resumption of Quotations by a Broker or Dealer Who Lacks Certain Information, Exchange Act Rel. No. 34-9310 (Sept. 13, 1971), 36 FR 18641 (Sept. 18, 1971). The Rule was last substantively amended in 1991. 56 FR 19148.

² 15 U.S.C. 78a et seq.

³ The Commission proposed amendments to the Rule on Sept. 25, 2019. Publication or Submission of Quotations Without Specified Information, Release No. 34-87115 (Oct. 30, 2019), 84 FR58206. On Feb. 6, 2020, the Commission submitted a separate request to the Office of Information and Regulatory Affairs to revise the currently approved collection consistent with the proposed amendments. ICR Reference No: 202002-3235-005. The Commission has not adopted amendments as of the date of this Supporting Statement, so the proposed amendments have not been incorporated herein. If the Commission adopts amendments it will revise the information collection accordingly.

⁴ See infra Section 12.

2. Purpose and Use of the Information Collection

The information collection protects investors by helping to ensure that a quoted market for a security is less susceptible to fraudulent and manipulative trading schemes.

3. Consideration Given to Information Technology

The increased use and availability of computers and the Internet, as well as improvements in telecommunication and data processing technology, will likely reduce the burdens created by the Rule. The availability of financial and other information of reporting issuers over the Commission's EDGAR system, which is available via the Internet, also reduces the burdens associated with Rule 15c2-11 compliance. The Commission is not aware of any technical or legal obstacles to reducing the burden through the use of improved information technology.

4. Duplication

The information collection requirement under the Rule is not duplicated elsewhere.

5. Effect on Small Entities

Broker-dealers file a Form 211 with the Financial Industry Regulatory Authority, Inc. ("FINRA") when the Rule requires them to comply with the information review requirement. Based on information provided by FINRA, 34 broker-dealers filed Forms 211 in 2019. We use this number as a proxy for the number of broker-dealers that are impacted by the information collection requirement under the Rule. A broker-dealer is a small entity if it has total capital (net worth plus subordinated liabilities) of less than \$500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to §240.17a-5(d), and it is not affiliated with any person (other than a natural person) that is not a small business or small organization.⁵

The Commission does not believe that any of the 34 broker-dealers impacted by the Rule are small entities under the above definition because they either exceed \$500,000 in total capital or are affiliated with a person that is not a small entity. It is possible that in the future a small entity may become impacted by the Rule. Based on experience with broker-dealers that participate in this market, however, the Commission believes that this scenario will be unlikely because firms that enter the market are likely to exceed \$500,000 in total capital or be affiliated with a person that is not a small entity. For the reasons noted above, the Commission believes that no small entities are affected by the information collection requirement under the Rule.

6. Consequences of Not Conducting Collection

Without the information collection associated with the Rule it would be extremely difficult, if not impossible, for the Commission to determine that the information review

⁵ See 17 CFR 240.10.

requirements in paragraphs (a)-(b) of the Rule have been met. Further, because the frequency of responses is dependent on the initiation or resumption of a quotation, it is not possible to decrease the frequency of the information collection while still subjecting respondents to the information review requirement under the Rule.

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

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultations Outside the Agency

The required Federal Register notice with a 60-day comment period soliciting comments on this collection of information was published. No public comments were received.

9. Payment or Gift

Not applicable.

10. Confidentiality

No assurance of confidentiality is provided.

11. Sensitive Questions

The information collected pursuant to Rule 15c2-11 is obtained and maintained by broker-dealers; and the information is not directly collected by, or submitted to, the SEC. Therefore, the information collection does not constitute a Privacy Act system of records.

12. Information Collection Burden

The Commission estimates that the information collection burden under the Rule will be as set forth in the chart below. A more detailed description is immediately below the chart.

Summary of Estimated Hourly Burden Associated with Compliance with Information Review Requirement under the Rule			
Type of Burden	Number of Information Reviews Conducted	Burden per Response (Hours)	Total Annual Burden (Hours)
Recordkeeping	384 ⁶	6.09375	2,340
Third-Party Disclosure	384	1	384
AGGREGATE ANNUAL BURDEN (HOURS)			2,724

Absent an exception, paragraph (a) of the Rule requires broker-dealers to comply with an information review requirement before the initiation or resumption of a quotation for an OTC security. The Commission believes that the information collection associated with this information review involves (i) conducting a review of and maintaining the required information and, if required by paragraph (d)(1) of the Rule, (ii) furnishing the information to an interdealer quotation system.

The Commission estimates the hourly burdens for the information collection by multiplying the number of times the information review was completed in 2019 by the number of hours estimated to complete each review. As discussed in Section 5 above, broker-dealers file a Form 211 with the FINRA when the Rule requires them to comply with the information review requirement. Given the alignment of this FINRA requirement and the Rule, the Commission uses the number of Forms 211 filed with FINRA to estimate the number of times that broker-dealers will complete the information review requirement annually. The Commission also estimates that it takes four hours to comply with the information collection for information reviews concerning reporting issuers (one hour of which relates to third-party disclosure) and eight hours to comply with the information collection for information reviews concerning non-reporting issuers (one hour of which relates to third-party disclosure).⁷

Based on data provided by FINRA, in 2019, broker-dealers completed 384 information reviews—87 concerning securities of reporting issuers and 297 concerning securities of non-reporting issuers. The total time burden for recordkeeping associated with

⁶ This total consists of 87 reviews concerning securities of reporting issuers and 297 reviews concerning securities of non-reporting issuers.

⁷ The burden for all information reviews regardless of issuer type are added together in this discussion and combined in the chart in this section to continue with conventions used in prior supporting statements.

those information reviews is approximately 2,340 hours,⁸ and the total time burden for third-party disclosure associated with those information reviews is approximately 384 hours.⁹ Accordingly, there are 2,724 total annual burden hours¹⁰ (industrywide) associated with the information review requirement under the Rule for each year in the three-year approval period, dispersed between 34 broker-dealer respondents.¹¹ The Commission believes that the internal compliance costs for these 2,742 hours would be borne by internal staff working at a rate of \$62 per hour.¹²

13. Costs to Respondents

The Commission does not believe that respondents would incur any one-time start-up or additional operational or maintenance costs to comply with the Rule.

14. Costs to Federal Government

Rule 15c2-11 does not present a significant cost to the government because the government does not review the information collected by the respondents.

15. Changes in Burden

The Commission estimates that the estimated burden will change as set forth in the chart below. A more detailed description is immediately below the chart.

⁸ (87 reviews for reporting issuers x 3 hours) + (297 reviews for non-reporting issuers x 7 hours) = 261 hours + 2,079 hours = 2,340 hours.

⁹ (87 reviews for reporting issuers x 1 hour) + (297 reviews for non-reporting issuers x 1 hour) = 384 hours.

¹⁰ 2,340 hours (for recordkeeping) + 384 hours (for third-party disclosure) = 2,724 hours.

¹¹ See supra Section 5 (describing methodology used to estimate number of respondents).

¹² \$62 per hour figure for a General Clerk is from SIFMA's Office Salaries in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

Summary of Changes in Burden			
Total Annual Burden (Hours)	Total Annual Burden Previously Approved (Hours)	Change in Burden (Hours)	Reason for Change
2,724	2,908	-184	The decrease in total estimated hourly burden is due to a difference in the number of information reviews conducted and the ratio of reporting issuers to non-reporting issuers that the information reviews concerned during the years that served as the basis for the estimate.

The method of estimating burdens by multiplying the number of times the information review was completed in a year by the number of hours estimated to complete each review remains the same as for the currently approved estimates for the Rule. In addition, the methodology for estimating the number of times the information review was completed in a year and the hourly burden per information review is the same as for the currently approved burden estimates for the Rule.

The decrease in total estimated hourly burden results from (i) a difference in the number of information reviews conducted and (ii) the ratio of reporting issuers to non-reporting issuers that the information reviews concerned during the years that served as the basis for the estimate. More specifically, because broker-dealers conducted 77 more information reviews during 2016, the period used to determine the prior estimate, than they did in 2019, the hourly burden estimate based on 2019 information reviews is lower.¹³ In addition, the ratio of reporting to non-reporting issuers in 2016 was different than in 2019, leading to a different estimated aggregate annual burden (hours).¹⁴

16. Information Collection Planned for Statistical Purposes

Not applicable. There is no intention to publish the information for statistical purposes.

¹³ 461 information reviews in 2016 – 384 information reviews in 2019 = 77 more information reviews in 2016 than in 2019.

¹⁴ 195 reporting issuers to 266 non-reporting issuers in 2016 versus 87 reporting issuers to 297 non-reporting issuers in 2019.

17. Approval to Omit OMB Expiration Date

The Commission is not seeking approval to omit the expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.