

SUPPORTING STATEMENT
For the Paperwork Reduction Act Information Collection Submission for
Rule 611 (17 CFR 242.611) – Order Protection Rule
OMB Control No. 3235-0600

A. JUSTIFICATION

1. Necessity of Information Collection

On June 9, 2005, the Commission adopted Rule 611 as part of Regulation NMS.¹ Rule 611 is designed to limit the incidence of trade executions at prices inferior to a price displayed on another market. To achieve this goal, Rule 611 requires any national securities exchange, national securities association, alternative trading system, exchange market maker, over-the-counter market maker, and any other broker-dealer that executes orders internally by trading as principal or crossing orders as agent, to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution of a transaction in its market at a price that is inferior to a protected bid or offer displayed in another market at the time of execution (a “trade-through”).

Rule 611 contains one collection of information. This collection of information is found in Rule 611(a). Rule 611(a) requires any national securities exchange or national securities association that operates an SRO trading facility, alternative trading system, exchange market maker, over-the-counter market maker, and any other broker-dealer that executes orders internally by trading as principal or crossing orders as agent, to establish and maintain written policies and procedures reasonably designed to prevent the execution of a trade-through in its market, absent an applicable exception and, if relying on an exception, that are reasonably designed to assure compliance with the terms of the exception.

2. Purpose and Use of Information Collection

The purpose of the collection of information is to help ensure that national securities exchanges, national securities associations, alternative trading systems, exchange market makers, over-the-counter market makers, and other broker-dealers that execute orders internally and their customers, subscribers, members, and employees, as applicable, generally avoid trade-throughs, as contemplated by Rule 611. Without this collection of information, respondents would not have a means to enforce compliance with the Commission’s intention to prevent trade-throughs pursuant to the Rule 611.

¹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

3. Consideration Given to Information Technology

Improved information technology would not reduce the burden because each respondent would still be required to establish policies and procedures reasonably designed to prevent trade-throughs suited to any available technology.

4. Duplication

Not applicable; there is no duplication of information.

5. Effect on Small Entities

The rule's requirements are not unduly burdensome on smaller broker-dealers. No other small entities are affected by the rule.

6. Consequences of Not Conducting Collection

No collection of information under Rule 611 would undermine the purpose of 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

Not applicable.

11. Sensitive Questions

The information collection does not collect any Personally Identifiable Information ("PII").

12. Information Collection Burden

The Commission staff estimates that it would take approximately 60 hours annually per respondent to ensure that the policies and procedures established are up-to-date and remain in compliance with the Commission's rule: two hours per month of internal legal time and three hours per month of internal compliance time. The annual aggregate burden for all respondents combined for this collection of information is estimated to be 21,960 hours [366 respondents² x 60 hours annually]. The estimated cost for an in-house attorney is \$396 per hour, and the estimated cost for an assistant compliance director in the securities industry is \$349 per hour. Therefore, the estimated total internal cost of compliance for the annual hour burden is as follows: [(2 legal hours x 12 months x \$396) x 366 + [(3 compliance hours x 12 months x \$349) x 366] = \$8,076,888.³

Rule	Burden Type	Number of Respondents	Number of Annual Responses Per Respondent	Time Per Response (Hours)	Total Burden Per Burden Type (Hours)
Rule 611	Reporting	366	1	60	21,960

13. Costs to Respondents

The annual cost burden will be zero.⁴

14. Costs to Federal Government

Not applicable.

15. Changes in Burden

The estimated annual hour burden increased because the estimated number of respondents increased.

16. Information Collections Planned for Statistical Purposes

² This estimate includes 17 national securities exchanges that are equity securities exchanges. The estimate also includes an estimated 318 firms that are over-the-counter market makers or exchange market makers, as well as an estimated 31 alternative trading systems that trade NMS stocks.

³ The total cost of compliance for the annual hour burden has been revised to reflect updated estimated cost figures for an in-house attorney and an assistant compliance director. These figures are from SIFMA's *Management & Professional Earnings in the Securities Industry 2017*, modified by Commission staff for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

⁴ The cost burden originally consisted of one-time startup costs that are no longer applicable.

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.