SUPPORTING STATEMENT
for the Paperwork Reduction Act New Information Collection Submission for
Rule 17f-2(d)
OMB Control #: 3235-0028

A. JUSTIFICATION

1. Necessity of Information Collection

Congress added Section 17(f) to the Securities Exchange Act of 1934 ("Act")[1] in 1975 as part of the Securities Acts Amendments of 1975[2] in order to respond to a large number of securities thefts that occurred in the late 1960s. Testimony before the Senate Permanent Subcommittee of Investigations between 1971 and 1974 indicated that the trafficking in stolen securities certificates was profitable for organized crime and that the failure to have available to the financial community a means of easily identifying security-risk personnel was a contributing factor to that problem. Specifically, Section 17(f)(2) requires every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency to require that each of its partners, directors, officers, and employees be fingerprinted and submit such fingerprints to the U.S. Attorney General for identification and processing. This section also authorized the Commission to exempt, by rule, from the provisions of this paragraph any class of partners, directors, officers, and employees of any such member, broker, dealer, registered transfer agent, and registered clearing agency.

On March 16, 1976, the Commission adopted Rule 17f-2 under the Exchange Act. The general purposes of Rule 17f-2 are: (1) to identify security-risk personnel (i.e., persons with criminal history records for serious offenses); (2) to provide criminal record information so that employers can make fully informed employment decisions; and (3) to deter persons with a criminal record from seeking employment or association with covered entities. The rule attempts to achieve these purposes primarily by requiring, subject to certain exceptions, every partner, director, officer, and employee ("covered persons") of every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency ("covered entities" or "respondents") to be fingerprinted and submit such fingerprints to the U.S. Attorney General or its designee.

Rule 17f-2(d)(1) requires covered entities to maintain and preserve the processed fingerprint card or any appropriate substitute record together with any information received from the Attorney General for the duration of a covered person's employment or relationship with the entity and for a period of not less than three years after termination of a covered person's employment or relationship with the entity. However, subparagraph (2) of the rule permits a self-regulatory organization ("SRO") that is also the designated examining authority for a member of a national securities exchange, broker, or dealer to maintain and preserve the records required to be kept by this rule. Subparagraph (3) permits the required records to be maintained on microfilm.

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[1] 15 U.S.C. 78q(f).

[2] Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

2. Purpose and Use of the Information Collection

Retention of fingerprint records by covered entities enables the Commission or other examining authority to ascertain whether all covered persons are being fingerprinted and whether proper procedures regarding fingerprinting are being followed. Retention of these records for a period of not less than three years after termination of a covered person's employment or relationship with a covered entity ensures that law enforcement officials will have easy access to fingerprint cards on timely basis. This in turn acts as an effective deterrent to employee misconduct.

3. Consideration Given to Information Technology

Subparagraphs (2) and (3) of the rule authorize SROs to maintain and preserve fingerprint cards that they submit on behalf of covered entities and permits them to do so using microfilm.

4. Duplication

Rule 17f-2(b) provides that if fingerprint cards have already been taken pursuant to any other federal or state law or regulation and are submitted to the U.S. Attorney General or its designee, the requirements of Section 17(f)(2) of the Act are satisfied.

5. Effect on Small Entities

Because the rule permits the designated examining authority for a member of a national securities exchange, broker, or dealer to maintain and preserve records on behalf of that member, broker or dealer, such small entities will receive the benefit of economies of scale.

6. Consequences of Not Conducting Collection

If information were collected less frequently, the Commission's ability to ascertain whether all covered persons are being fingerprinted and whether proper procedures regarding fingerprinting are being followed would be weakened.

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

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

There were no payments or gifts to respondents.

10. Confidentiality

No assurance of confidentiality is provided by Rule 17f-2(d); information collected will otherwise be kept private to the extent protected by law.

11. Sensitive Questions

The information collection neither collects personally identifiable information, nor is information collected and stored by the Commission. The agency has determined that a SORN and PIA are not required in connection with the collection of information.

12. Burden of Information Collection

Rule 17f-2(d) requires covered entities to retain fingerprint records for the duration of a covered person's employment or relationship with the entity and for a period of not less than three years after termination of a covered person's employment or relationship with a covered entity. Therefore, the nature of the burden is an ongoing recordkeeping burden.

There are approximately 3,900 respondents that are subject to the recordkeeping requirements of the rule, including 91 registered transfer agents. Each respondent maintains an approximate average of 68 new records per year, each of which takes approximately 2 minutes to maintain. Therefore, the average annual hourly burden per respondent is approximately 2.2666667 hours (68 records times 2 minutes) and the total annual hourly burden for all respondents is approximately 8,840 hours (3,900 respondents times 2.2666667 hours). We note that FINRA maintains and preserves the records on behalf of many covered entities; many such entities therefore bear minimal, if any, direct burden.

Number of Respondents	Average Annual Hourly Burden Per Respondent	Total Annual Hourly Burden
3,900	2.2666667	8,840

13. Costs to Respondents

The total annual cost for respondents to comply with Rule 17f-2(d) reflects the cost to maintain and preserve fingerprint records that were returned to the respondent by the FBI. Again, we note that because FINRA maintains and preserves the records on behalf of many covered entities, the direct burden such entities bear is minimal, if any. Such records may be preserved in paper or microfilm format. The physical requirements associated with such record retention (e.g., file cabinets in designated records storage areas) are commonplace in an office environment.

We estimate that 10% of the respondents (390 respondents) retain third party storage vendors to preserve the required records offsite. Storage vendors' pricing structures vary (e.g., differences in pickup, retrieval, monthly maintenance, contract termination, and storage fees) and it is difficult to distill accurate cost estimates of the marginal cost of Rule 17f-2(d) records.

Nevertheless, we estimate the yearly third party offsite storage cost for the required records is approximately $100 per year because the volume of 17f-2(d) records is fairly low (about 1 cubic foot). Thus, we estimate that the total cost to these respondents is approximately $39,000 (390 respondents times $100).

Number of Respondents that Retain Third-Party Storage	Cost of Retaining Third-Party Storage	Total Cost
390	$100	$39,000

14. Costs to Federal Government

The costs to the federal government to administer Rule 17f-2(c) are zero. First, the fingerprint cards are retained by SROs or the covered entities themselves. Second, while the Commission periodically reviews the covered entities' fingerprinting retention policies and practices, the cost to the federal government is composed solely of staff time to review such plans. For purposes of the Paperwork Reduction Act burden, this cost is considered zero.

15. Changes in Burden

The overall burden decreased due to the decrease in the number of entities subject to the recordkeeping requirements of the Rule 17f-2(d) (4200 to 3900).

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.