

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 17g-3: Annual Financial and Other Reports to be Filed or Furnished by Nationally
Recognized Statistical Rating Organizations

A. JUSTIFICATION

1. Necessity of Information Collection

The Credit Rating Agency Reform Act of 2006¹ (“Rating Agency Act”), enacted on September 29, 2006, defined the term “nationally recognized statistical rating organization” (“NRSRO”) and provided authority for the Securities and Exchange Commission (“Commission”) to implement registration, recordkeeping, financial reporting, and oversight rules with respect to credit rating agencies registered with the Commission as NRSROs. The Rating Agency Act added new Section 15E, “Registration of Nationally Recognized Statistical Rating Organizations,”² to the Securities Exchange Act of 1934 (“Exchange Act”). In 2007, the Commission adopted rules to implement specific provisions of the Rating Agency Act, as well as other registration, recordkeeping, financial reporting and oversight rules.³

The Dodd-Frank Wall Street Reform and Consumer Protection Act⁴ (“Dodd-Frank Act”) was enacted on July 21, 2010. Title IX, Subtitle C of the Dodd-Frank Act, “Improvements to the Regulation of Credit Rating Agencies,” among other things, established new self-executing requirements applicable to NRSROs, required certain studies, and required that the Commission adopt rules applicable to NRSROs, providers of due diligence services, and issuers and underwriters of asset-backed securities in a number of areas.⁵ On August 27, 2014, the Commission adopted rules and rule amendments to implement certain of these provisions, including amendments to Rule 17g-3, as discussed below.⁶

Rule 17-3 under the Exchange Act (17 CFR 240.17g-3) contains reporting requirements for NRSROs.⁷ Exchange Act Section 15E(k), as added by the Rating Agency Act and amended by the Dodd-Frank Act, requires an NRSRO to file with to the Commission, on a confidential basis and at intervals determined by the Commission, such financial statements and information concerning its financial condition that the Commission, by rule, may prescribe as necessary or

¹ Pub. L. No. 109-291 (2006).

² 15 U.S.C. 78o-7.

³ Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations, Exchange Act Release No. 55857 (June 5, 2007), 72 FR 33564 (June 18, 2007).

⁴ Pub. L. No. 111-203, 124 Stat. 1376, H.R. 4173 (2010).

⁵ See Pub. L. No. 111-203, 939, 939D-939F.

⁶ Nationally Recognized Statistical Rating Organizations, Exchange Act Release No. 72936 (August 27, 2014).

⁷ The Office of Management and Budget (“OMB”) Control Number for Rule 17g-3 is 3235-0626.

appropriate in the public interest or for the protection of investors. The Commission adopted paragraphs (a)(1) through (a)(5) of Rule 17g-3 under Section 15E(k).⁸ These paragraphs require NRSROs to file annual reports to the Commission, including audited financial statements and certain unaudited financial reports. Rule 17g-3(a)(6), which was adopted under Section 17(a)(1) of the Exchange Act, requires NRSROs to furnish the Commission with an unaudited report of certain rating transitions.⁹ Paragraph (a)(7) of Rule 17g-3 requires an NRSRO to include an unaudited report on the NRSRO's internal control structure with its annual submission of reports pursuant to Rule 17g-3¹⁰ and paragraph (b) of Rule 17g-3 requires that the NRSRO's chief executive officer ("CEO") or equivalent individual provide a signed statement that would be attached to the report.¹¹

Section 15E(j)(5)(A) of the Exchange Act, added by the Dodd-Frank Act, requires the designated compliance officer of an NRSRO to submit to the NRSRO a report on the compliance of the NRSRO with the securities laws and the policies and procedures of the NRSRO, and Section 15E(j)(5)(B) provides that the NRSRO "shall file" this report with the financial report required to be submitted to the Commission under Section 15E of the Exchange Act (that is, the Rule 17g-3 annual reports). Paragraph (a)(8) to Rule 17g-3 requires that this report be filed with the other annual reports required under Rule 17g-3.¹² This requirement does not result in a Commission collection of information requirement because the requirement to file the report with the other annual reports required under Rule 17g-3 derives exclusively from Section 15E(j)(5)(B) of the Exchange Act (not from Commission rulemaking).¹³

The Commission previously added paragraph (d) to Rule 17g-3 to require that all the annual reports that are required to be provided to the Commission pursuant to Rule 17g-3 be submitted through the Commission's Electronic Data Gathering and Retrieval ("EDGAR") system.¹⁴ Paragraph (d) provides that the reports required by the rule must be submitted electronically with the Commission in the format required by the EDGAR Filer Manual, as defined in Rule 11 of Regulation S-T.

The collection of information obligations imposed by Rule 17g-3 are mandatory. The rule, however, applies only to credit rating agencies that are registered with the Commission as NRSROs, and registration is voluntary.

⁸ See Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations, 72 FR 33564.

⁹ See Amendments to Rules for Nationally Recognized Statistical Rating Organizations, Exchange Act Release No. 59342 (Feb. 2, 2009), 74 FR at 6464-65 (Feb. 9, 2009). Section 17(a)(1) of the Exchange Act provides that any report an NRSRO "is required by Commission rules under this paragraph to make and disseminate to the Commission shall be deemed furnished to the Commission."

¹⁰ 17 CFR 240.17g-3(a)(7).

¹¹ 17 CFR 240.17g-3(b)(2).

¹² 17 CFR 240.17g-3(a)(8).

¹³ See 15 U.S.C. 78o-7(j)(5)(B).

¹⁴ 17 CFR 240.17g-3(d).

2. Purpose and Use of the Information Collection

The collection of information included in Rule 17g-3 is necessary for Commission oversight of NRSROs registered with the Commission. This collection of information will aid the Commission in determining whether the initiation of a de-registration proceeding under Section 15E(d) of the Exchange Act would be appropriate. Further, the Commission can use the reports to review whether the NRSRO is complying with the requirements in Section 15E(c)(3) (A) of the Exchange Act.

The requirement that NRSROs use the Commission's EDGAR system to file the annual reports as PDF documents will assist the Commission in performing its oversight function. For example, Commission examiners will be able to more easily retrieve the reports of an NRSRO to prepare for an examination. Moreover, having these reports submitted and stored through the EDGAR system will assist the Commission from a records management perspective by establishing a more automated storage process and reducing the volume of paper submissions that must be manually processed and stored.

3. Consideration Given to Information Technology

Paragraph (d) of Rule 17g-3 provides that the reports required by the rule must be submitted electronically with the Commission in the format required by the EDGAR Filer Manual, as defined in Rule 11 of Regulation S-T.

4. Duplication

The Commission has not identified any duplication with respect to the information required by Rule 17g-3.

5. Effect on Small Entities

Small entities will be affected by Rule 17g-3 because all NRSROs, regardless of size, will be required to submit the reports to the Commission on an annual basis. The Commission previously solicited comment regarding the burden on small entities and considered potential alternatives to minimize the burden of the collection of information requirements on those who are required to respond.

6. Consequences of Not Conducting Collection

If this information were not collected as frequently, the Commission would be unable to ascertain, on an ongoing basis, whether a credit rating agency registered as an NRSRO "fails to maintain adequate financial and managerial resources to consistently produce credit ratings with integrity."¹⁵

¹⁵ See 15 U.S.C. 78o-7(d)(1)(E). Under 15 U.S.C. 78o-7(d), "Censure, Denial, or Suspension or Registration; Notice and Hearing," the Commission shall impose sanctions on an NRSRO, which may include revoking its registration, if, among other things, it fails to maintain adequate financial and managerial resources to consistently produce credit ratings with integrity.

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 notice with a 60-day comment period soliciting comments on this collection of information was published in the Federal Register on January 28, 2021.¹⁶ The Commission did not receive comments on its estimates of the paperwork burden associated with Rule 17g-3.

9. Payment or Gift

The Commission did not provide any payment or gift to respondents in connection with the amendments to Rule 17g-3.

10. Confidentiality

Section 15E(k) of the Exchange Act provides that NRSROs “shall, on a confidential basis” file such statements of financial condition with the Commission as the Commission may prescribe. Therefore, the reports filed under paragraphs (a)(1) through (a)(5) of Rule 17g-3 are filed on a confidential basis. The reports submitted under paragraph (a)(6) of Rule 17g-3 and paragraphs (a)(7) and (a)(8) of Rule 17g-3 will be protected only to the extent permitted by FOIA.

11. Sensitive Questions

Not applicable. No inquiries of a sensitive nature were made. The information collection does not collect any Personally Identifiable Information (PII). The Systems of Record Notice may be reviewed at the following site, <http://www.sec.gov/about/privacy/sorn/secsorn6.pdf>. The Privacy Impact Assessment document for EDGAR is attached as a supplemental document.

12. Burden of Information Collection

The Commission previously estimated that each NRSRO registered with the Commission will take, on average, approximately 200 hours to prepare for and submit annual audited financial statements for a total of 1,800 hours (200 hours x 9 NRSROs) reporting burden for the industry per year. This is a reduction of 200 hours, because there are only 9 registered NRSROs at the time of renewal. The Commission also previously estimated that each NRSRO would spend on average approximately 150 hours preparing the internal controls report, and an average of approximately fifteen extra hours per year documenting material weaknesses identified during the fiscal year and how they were remediated, resulting in an annual total internal burden

¹⁶ See 86 FR 7436 (Jan. 28, 2021).

of approximately 165 hours per NRSRO¹⁷ per year for preparing the internal controls report, resulting in a total industry-wide annual reporting burden of approximately 1,485

As discussed above, Rule 17g-3 requires that the annual reports be submitted electronically on the Commission’s EDGAR system. The Commission estimates there will be burdens to submit the Rule 17g-3 annual reports electronically through EDGAR, however, the Commission is allocating these burdens to Rule 17g-1 and Form NRSRO. For purposes of this PRA submission, the Commission therefore estimates that the annual industry-wide reporting burden would be 3,285 hours per year (1,800 annual hours plus 1,485 annual hours).

IC	IC Title	Annual No. of Responses			Annual Time Burden (Hrs.)			Burden Cost Burden (\$)		
		Previously approved	Requested	Change	Previously approved	Requested	Change	Previously approved	Requested	Change
IC1	Annual Audited Financial Statements	10	9	-1	2,000	1,800	-200	150,000	135,000	-15,000
IC2	Preparation of 17g-3 Internal Controls Reports	10	9	-1	1,650	1,485	-165	200,000	180,000	-20,000
Total for all ICs		20	18	-2	3,650	3,285	-365	350,000	315,000	-35,000

13. Costs to Respondents

Rule 17g-3 requires that an NRSRO provide audited financial statements that are certified by an independent public accountant.¹⁸ The cost of an audit by an independent public accountant varies substantially with the size and complexity of the NRSRO. The current OMB estimate is that, on average, an NRSRO will pay an independent public accountant approximately \$15,000 per year to perform an audit or audit procedures that are required by Rule 17g-3.¹⁹ Therefore, the annual external reporting cost to the industry is estimated to be approximately \$135,000.²⁰

The Commission previously stated that an NRSRO likely would engage outside counsel to assist in preparing the reports required under Rule 17g-3 and that the time outside counsel

¹⁷ See *id.* (9 NRSROs x 150 hours + 9 NRSROs x 15 hours = 1,485 hours).

¹⁸ 17 CFR 240.17g-3(a)(1)(iii).

¹⁹ Based on staff experience, it is estimated that the cost of the annual audit for a small NRSRO will range from \$3,000 - \$5,000 while the cost of the annual audit for a large NRSRO would be substantially greater.

²⁰ \$15,000 x 9 NRSROs = \$135,000.

would spend assisting in the preparation of subsequent reports would be less than the time spent on preparing the first report, since the counsel's work will not need to include an initial analysis of the new requirements. Consequently, the Commission estimated that an attorney would spend an average of approximately fifty hours assisting an NRSRO and its CEO or other qualified individual in drafting and reviewing the report, resulting in an industry-wide annual hour burden of approximately 450 hours.²¹ As stated above, the Commission estimated that the cost of outside counsel would be approximately \$400 per hour. For these reasons, the Commission estimated that the average annual cost to an NRSRO to comply with this requirement would be approximately \$20,000²², resulting in an industry-wide annual cost of approximately \$180,000.²³

14. Cost to Federal Government

The Commission does not anticipate any costs to the Federal Government associated with the information collections related to the Rule.

15. Changes in Burden

There is a decrease in the burden for Rule 17g-3(a)(7) as the result of a decrease in the number of registered entities since the last renewal of the collection.

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 Certifications for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. Collections of Information Employing Statistical Methods

The collection of information does not employ statistical methods, or analyze the information for the Commission.

²¹ See *id.* (9 NRSROs x 50 hours = 450 hours). The Commission adopted paragraph (a)(7) of Rule 17g-3 as proposed. Accordingly, this estimate remains unchanged from the Commission's preliminary estimate in the proposing release.

²² See *id.* (50 hours x \$400 = \$20,000).

²³ See *id.* (9 NRSROs x \$20,000 = \$180,000).