

MEMORANDUM

TO: Office of Information and Regulatory Affairs
Office of Management and Budget

FROM: Molly Kim
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Division of Trading and Markets
Securities and Exchange Commission

RE: 3235-0462; Request for Emergency Clearance of an Information Collection for Rule 604

DATE: April 12, 2021

Section 11A of the Securities Exchange Act of 1934 (“Exchange Act”) charges the Securities and Exchange Commission (“Commission”) with the responsibility to assure that the national market system develop and operate in accordance with specific goals and objectives.¹ Among the national market system’s goals and objectives are the public availability of quotation information, fair competition, market efficiency, best execution and disintermediation.

The Commission adopted Rule 11Ac1-4 in furtherance of these such goals by requiring specialists and market makers to publish customer limit orders that are priced superior to the bids or offers being displayed by each such specialist or market maker² and the information collection requirements of that rule were submitted and approved under OMB Control Number 3235-0462. When Rule 11Ac1-4 was re-numbered as Rule 604 with the adoption of Regulation NMS, the information collection requirements of the rule remained the same.³ However, Commission staff inadvertently and mistakenly discontinued the OMB Control Number associated with these information collection requirements on December 10, 2007, following the re-numbering of Rule 11Ac1-4 as Rule 604 – an error that was only recently discovered.

The Commission is hereby requesting, on an emergency basis, a reinstatement of the previously approved information collection requirements associated with OMB Control Number 3235-0462. This emergency reinstatement would prevent the disruption of normal collection efforts pursuant to Rule 604, which are still in force. The information collected pursuant to Rule 604 is necessary to further the above-described statutory directive to facilitate the establishment

¹ See 15 U.S.C. 78k-1.

² See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996).

³ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37570 (June 29, 2005).

of a national market system for securities. If the required dissemination procedures are not adhered to, or adhered to inconsistently, there would be a lack of transparency regarding trading interests that improve specialists' and market makers' quotes, which could adversely investors by minimizing favorable execution opportunities and diminishing access to the best available prices when they buy or sell securities. Emergency reinstatement would also enable the Commission to better monitor and regulate existing market participants that are subject to Rule 604. These functions, which are critical to the Commission's statutory mandate to facilitate the establishment of a national market system for securities, would be much more difficult without the information collected pursuant to Rule 604.

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If you have any questions about this matter, please feel free to contact Molly Kim or Daniel Gray in the Division of Trading and Markets.