

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 605 of Regulation NMS
(OMB Control No. 3235-0542)

A. Justification

1. Necessity of Information Collection

This information collection is required under Rule 605 and Section 17(a) of the Securities Exchange Act of 1934 (“Exchange Act”).¹ The order execution information required by Rule 605 of Regulation NMS (“Rule 605”)², f/k/a Rule 11Ac1-5, is necessary to further the national market system objectives set forth in Section 11A(a)(1)(C). These objectives include the economically efficient execution of orders, fair competition among broker-dealers and among markets, the availability to broker-dealers and investors of information with respect to transactions in securities, and the practicability of brokers executing investors’ orders in the best market.

On November 2, 2018, the Commission adopted amendments to Rule 606 of Regulation NMS³ to require new disclosures by broker-dealers relating to their handling of certain categories of orders and enhance existing disclosures relating to their handling to certain other categories of orders. The Commission also amended Rule 605(a)(2) to require market centers to keep reports required pursuant to Rule 605(a)(1) posted on an Internet Web site that is free of charge and readily accessible to the public for a period of three years from the initial date of posting on the Internet Web site.

2. Purpose and Use of the Information Collection

The purpose of the information collection is to make information about order execution practices available to the public and allow investors, broker-dealers, and market centers (which include exchange markets, over-the-counter market makers, and alternative trading systems)⁴ to undertake a comparative analysis of these practices across markets. Broker-dealers may use the information to make more informed choices in deciding where to route orders for execution and to evaluate their internal order handling practices. Investors may use the information to evaluate the order handling practices of their brokers. Market centers may use the information to compete on the basis of execution quality.

1 OMB No. 3235-0542.

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

³ See Securities Exchange Act Release No. 84528 (November 2, 2018), 83 FR 58338 (November 19, 2018).

4 See 17 CFR 242.600(b)(38).

If the Commission did not require market centers to disclose this information, then investors would be uninformed as to the quality of their orders' executions, and there would be limited opportunities for fair competition among market centers based on the quality of their order execution services.

3. Consideration Given to Information Technology

Rule 605 requires market centers to make available to the public monthly order execution reports in electronic form. The Commission believes that many market centers retain most, if not all, of the underlying raw data necessary to generate these reports in electronic format. Consequently, the Rule would not require substantial additional data collection burdens. Once the necessary data is collected, market centers could either program their systems to generate the statistics and reports, or transfer the data to a service provider (such as an independent company in the business of preparing such reports or a self-regulatory organization) that would generate the statistics and reports.

Market centers are not prohibited from using any technology that facilitates consumer understanding and that permits review, as appropriate, by the Commission or other appropriate regulatory authorities.

4. Duplication

The collections of information are unique and cover the particular circumstances of each market center. No duplication exists.

5. Effect on Small Entities

Not applicable. Neither the national securities exchanges nor any market centers that must comply with the Rule would be considered small entities as described in the OMB guidelines for completing this Submission.

6. Consequences of Not Conducting Collection

This collection of information is intended to help investors and broker-dealers evaluate the quality of execution they received for their order at different market centers. Because market conditions change frequently, a less frequent collection would not provide data that would be as timely or pertinent to the public. A monthly disclosure gives a sufficient sample of statistics to be meaningful to investors and broker-dealers in their analyses.

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

The Commission notes that market centers that are national securities exchanges or national securities associations are required to retain the collections of information required

under Rule 605 for a period of not less than five years, the first two years in an easily accessible place. All other market centers are required to retain the collections of information required under Rule 605 for a period of not less than three years, the first two in an easily accessible place.

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 personally identifiable information. The agency has determined that neither a PIA nor a SORN are required in connection with the collection of information.

12. Burden of Information Collection

The collection of information obligations of Rule 605 apply to all market centers that receive covered orders in national market system securities. The Commission estimates that approximately 319 market centers (153 market makers, plus 24 exchanges, 1 securities association, 80 exchange market makers, and 61 ATSS) would be subject to the collection of information obligations of Rule 605. Each of these respondents is required to respond to the collection of information on a monthly basis.

The Commission staff estimates that, on average, Rule 605 causes each respondent to spend 6 hours per month to collect the data necessary to generate the reports, or 72 hours per year. With an estimated 319 market centers subject to Rule 605, the total data collection time burden to comply with the monthly reporting requirement is estimated to be 22,968 hours per year (319 x 72).

| Respondents | Individual Annual Hour Burden | Total Annual Hour Burden |
|--------------------|--------------------------------------|---------------------------------|
| 319 | 72 | 22,968 |

13. Costs to Respondents

Based on discussions with industry sources, the Commission staff estimates that an individual market center could retain a service provider to prepare a monthly report for approximately \$2,978 per month or approximately \$35,736 per year. This per-respondent estimate is based on the rate that a market center could expect to obtain if it negotiated on an individual basis. Based on the \$2,978 estimate, the monthly cost to the 319 market centers to retain service providers to prepare reports would be approximately \$949,982 (319 x \$2,978), or a total annual cost of approximately \$11,399,784 (\$949,982 x 12).

| Respondents | Individual Annual Cost Burden | Total Annual Cost Burden |
|--------------------|--------------------------------------|---------------------------------|
| 319 | \$35,736 | \$11,399,784 |

14. Costs to Federal Government

Not applicable.

15. Changes in Burden

The total annual hour and cost burden decreased from approximately 27,432 hours and \$13,615,416, respectively, to approximately 22,968 hours and \$11,399,784, respectively due to a decrease in the estimated number of respondents from 381 to 319.

| | Respondents | Individual hour burden (yearly) | Individual cost burden (monthly) | Annual hour burden | Annual cost burden |
|---------------|--------------------|--|---|---------------------------|---------------------------|
| 2018 | 381 | 72 | \$2,978 | 27,432 hours | \$13,615,416 |
| 2021 | 319 | 72 | \$2,978 | 22,968 hours | \$11,399,784 |
| Change | -62 | 0 | \$0 | -4,464 hours | \$-2,215,632 |

16. Information Collection Planned for Statistical Purposes

These are disclosures from market centers to the general public. The Commission is not collecting data. The Commission has no information to publish and no plans to publish any data for statistical or other 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

Not applicable.

B. Collection of Information Employing Statistical Methods.

Not applicable.