

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 15a-6
OMB Control No. 3235-0371

A. Justification

1. Necessity of Information Collection

The world's securities markets rapidly are becoming international in scope. Multinational offerings have become commonplace, linkages are developing between trading markets, and U.S. and foreign broker-dealers are developing an international business, establishing offices throughout the world. Investor interest in trading in world financial markets has become widespread. Institutional investors, such as investment companies, pension funds, and major commercial banks, in particular, are active on an international basis.

As U.S. institutions increasingly invest in securities whose primary market is outside the United States, the ability of these institutions to obtain ready access to foreign markets has grown in importance. Foreign broker-dealers may offer valuable services to these U.S. investors. Foreign broker-dealers often provide opportunities to execute trades quickly in a wide range of foreign securities markets. Foreign broker-dealers also make available research reports concerning foreign companies, industries, and market environments that are major sources of information for U.S. institutional investors.

Notwithstanding the important services that may be provided by foreign broker-dealers, the Commission continues to believe that broker-dealer registration is generally necessary for foreign entities engaging in securities transactions directly with U.S. persons in U.S. markets. Registration of market professionals is a key element in the federal statutory scheme and plays a significant role in protecting investors. It promotes a baseline level of integrity among broker-dealers and their personnel dealing with investors.

In some circumstances, however, for policy reasons, the Commission believes that it is not necessary for a foreign broker-dealer effecting transactions on behalf of U.S. investors to register with the Commission. It is for this reason that the Commission adopted Rule 15a-6 (17 CFR 240.15a-6) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) ("Exchange Act"). The rule was adopted pursuant to the Commission's exemptive authority under Section 15(a)(2) of the Exchange Act (15 U.S.C. 78o(a)(2)), which authorizes the Commission to issue exemptions from the broker-dealer registration requirement contained in Exchange Act Section 15(a)(1) (15 U.S.C. 78o(a)(1)).

2. Purpose and Use of Information Collection

Paragraph (a)(3) of Rule 15a-6 provides an exemption to allow an unregistered foreign broker-dealer to effect transactions in securities with or for certain U.S. institutional investors through a U.S. registered broker-dealer, and to solicit such transactions, provided that several conditions are complied with. Among these conditions, Rule 15a-6(a)(3)(iii)(C) requires the

U.S. registered broker-dealer to obtain and keep a record of the information specified in Rule 17a-3(a)(12) under the Exchange Act with respect to each individual associated with the foreign broker-dealer who will be in contact with U.S. institutional investors. This requirement is intended to insure that the U.S. registered broker-dealer will receive notice of the identity of, and has reviewed the background of, foreign personnel who will contact U.S. institutional investors. In addition, under Rule 15a-6(a)(3)(iii)(D), the U.S. registered broker-dealer must obtain written consents to service of process from the foreign broker-dealer and each foreign individual in contact with U.S. institutional investors, for any civil action by or proceeding before the Commission or a self-regulatory organization. Finally, Rule 15a-6(a)(3)(iii)(E) requires the U.S. registered broker-dealer to maintain written records of the information and consents required by the foregoing provisions, and of the trading activities of U.S. institutional investors involving the foreign broker-dealer, in an office of the registered broker-dealer located in the United States, and to make such records available to the Commission on request.

3. Consideration Given to Information Technology

Not applicable.

4. Duplication

The information requested from the U.S. registered broker-dealer through which a foreign broker-dealer effects transactions with or for U.S. institutional investors is not duplicative, because the foreign broker-dealer is not registered as a broker-dealer with the Commission.

5. Effect on Small Entities

Commission staff estimates that out of approximately 2,000 U.S. registered broker-dealers affected by the rule's requirements, approximately 820 are small entities.¹ The rule is one of general applicability that does not depend on the size of a broker-dealer. Because the exemption is designed to apply to all registered broker-dealers that enter into arrangements with foreign broker-dealers of the type specified by the rule, the rule must apply in the same manner to small, as well as large, broker-dealers. In addition, small broker-dealers are subject to the same regulatory and recordkeeping requirements under the federal securities laws as large broker-dealers. Accordingly, the burden on small broker-dealers cannot be minimized.

6. Consequences of Not Conducting Collection

¹ The Commission recently estimated, in Shortening the Securities Transaction Settlement Cycle, Exchange Act Release No. 94196 (Feb. 9, 2022), that in the third quarter of 2021, out of approximately 3,500 broker-dealers filing FOCUS Reports with the Financial Industry Regulatory Authority, approximately 1,439 might be deemed small entities as of June 30, 2021, based on FOCUS Report Data. This would mean that approximately 41% of active U.S. registered broker-dealers might be deemed small entities. Assuming the percentage of small entities in the approximately 2,000 broker-dealers affected by the rule is the same as the percentage of small entities in 3,500 active U.S. registered broker-dealers, or 41%, Commission staff estimates that approximately 820 are small entities (0.41 X 2000 = 820).

A more flexible standard of recordkeeping by U.S. registered broker-dealers who use the rule's exemption could jeopardize the fundamental protections that the federal securities laws provide. Moreover, because of its supervisory responsibility for the U.S. institutional investor's account, the U.S. registered broker-dealer is responsible for taking reasonable steps to assure itself that all transactions pursuant to the rule are solicited and effected in a manner consistent with U.S. securities laws. In this regard, for example, the U.S. registered broker-dealer is responsible for taking reasonable steps to assure itself that there is a reasonable basis for any recommendation made by the foreign broker-dealer or its personnel.

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 the collection of information was published. No public comments were received.

9. Payment or Gift

Not applicable.

10. Confidentiality

No assurances of confidentiality have been provided to U.S. registered broker-dealers. In fact, the rule would require that the U.S. registered broker-dealer maintain a written record of the information and consents in the United States and make such records available to the Commission upon request.

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. Information Collection Burden

Because U.S. registered broker-dealers are currently required by Rule 17a-3(a)(12) under the Exchange Act to maintain similar records with regard to their own registered personnel, the rule imposes minimal additional costs on U.S. registered broker-dealers. In addition, not every U.S. registered broker-dealer will choose to enter an arrangement with a foreign broker-dealer as contemplated by the rule. Commission staff estimates that approximately 2,000 U.S. registered broker-dealers are affected by the rule's requirements, and that each affected U.S. registered broker-dealer expends an average of 3 burden hours per year in its efforts at compliance for a total of 6,000 annual burden hours.

The estimated total internal labor costs of compliance to U.S. registered broker-dealers are approximately \$926,000. Specifically, Commission staff estimates that the approximately 2,000 U.S. registered broker-dealers will be required to spend an average of two hours of clerical staff time and one hour of managerial staff time per year obtaining the information required by the rule. Assuming an hourly cost of \$72² for a compliance clerk and \$319³ for a compliance manager, the resultant total internal labor cost of compliance for the respondents is \$926,000 per year (2,000 entities X ((2 hours/entity X \$72/hour) + (1 hour per entity X \$319/hour)) = \$926,000).

Alternatively, if foreign broker-dealers desired to engage in securities transactions with U.S. persons without complying with the rule, those foreign entities could be required to comply with the broker-dealer registration requirements under the Exchange Act, resulting in significant cost to the foreign entity.

SUMMARY OF ANNUAL TIME BURDEN

Rule	Burden Type	Number of Respondents	Number of Annual Responses Per Respondent	Time Per Response (Hours)	Total Burden Per Burden Type (Hours)
Rule 15a-6 (17 CFR 240.15a-6)	Recordkeeping	2,000	1	3	6,000
<i>Total Aggregate Burden</i>					<i>6,000</i>

13. Costs to Respondents

Not applicable. It is not anticipated that respondents will have to incur any capital and start-up costs, nor any additional operational or maintenance costs (other than as provided in Item 12), to comply with the collection of information.

14. Costs to Federal Government

Not applicable. Rule 15a-6 would not result in any costs to the federal government beyond normal full-time employee labor costs, nor does the rule require the Commission to hire any new employees or reallocate existing employees to ensure compliance with the rule.

² The hourly rate used for a compliance clerk was from SIFMA's Office Salaries in the Securities Industry 2013, modified by Commission staff to account for an 1,800 hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

³ The hourly rate used for a compliance manager was from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800 hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

Specifically, the Commission already examines and inspects U.S. registered broker-dealers, and inspection for compliance with the recordkeeping requirements of this rule is part of the overall broker-dealer inspection.

15. Changes in Burden

Not applicable. There is no change in burden.

16. Information Collections 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

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.