

**SUPPORTING STATEMENT for the Paperwork Reduction Act Information Collection  
Submission for Rule 18a-3–Non-cleared security-based swap margin requirements for  
security-based swap dealers and major security-based swap participants for which there is  
not a prudential regulator  
3235-0702<sup>1</sup>**

This submission is being made pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 *et seq.*

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

On June 21, 2019, in accordance with Section 764 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”),<sup>2</sup> which added section 15F to the Securities Exchange Act of 1934 (the “Exchange Act”),<sup>3</sup> the Securities and Exchange Commission (the “Commission”) adopted Rule 18a-3 to establish minimum margin requirements for nonbank security-based swap dealers (“SBSDs”) and nonbank major security-based swap participants (“MSBSPs”) for non-cleared security-based swaps.<sup>4</sup> The rule establishes a new collection of information requirement with respect to nonbank SBSBs.

Specifically, under paragraph (e) of Rule 18a-3 nonbank SBSBs are required to monitor the risk of each account that holds non-cleared security based swaps for a counterparty and to establish, maintain, and document procedures and guidelines for monitoring the risk of accounts as part of its risk management control system required under Exchange Act Rule 15c3-4. In addition, the rule requires nonbank SBSBs to review, in accordance with written procedures and at reasonable periodic intervals, its non-cleared security-based swap activities for consistency with such risk monitoring procedures and guidelines. Nonbank SBSBs are also required to determine whether information and data necessary to apply the risk monitoring procedures and guidelines are accessible on a timely basis and whether information systems are available to adequately capture, monitor, analyze, and report relevant data and information. Finally, the rule requires that the monitoring procedures and guidelines must include, at a minimum, procedures and guidelines for:

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<sup>1</sup> This OMB Control Number previously included the collections of information in Rule 18-10 as well as the ones in Rule 18a-3. The Commission subsequently requested a separate OMB Control Number for the collections of information in Rule 18a-10. OMB approved that request on February 9, 2022, and the collections of information for Rule 18a-10 are now in OMB Control Number 3235-0785. As a result, the Commission is now changing the burdens in this OMB Control Number 3235-0702 to remove the ones previously included for Rule 18a-10. The Collections of information in Rule 18a-10 were included in OMB Control Number 3235-0702 because Rule 18a-10 was not proposed, but was adopted concurrently with 18a-3 as a result of comments received on the proposal for Rule 18a-3. The Commission later amended Rule 18a-10 and revised the collections of information in Rule 18a-10 and, at that time, requested a separate OMB Control Number. See [PRA ICR Documents for 3235-0785 on \(reginfo.gov\)](https://www.reginfo.gov/public/do/PRACollection?collection=3235-0785).

<sup>2</sup> See *Dodd-Frank Wall Street Reform and Consumer Protection Act*, Public Law 111-203, 124 Stat. 1376 (2010).

<sup>3</sup> See 15 U.S.C. 78o-10(e)(2)(B).

<sup>4</sup> See *Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers*, Exchange Act Release No. 86175.

- Obtaining and reviewing account documentation and financial information necessary for assessing the amount of current and potential future exposure to a given counterparty permitted by the SBSB;
- Determining, approving, and periodically reviewing credit limits for each counterparty, and across all counterparties;
- Monitoring credit risk exposure to the SBSB from non-cleared security-based swaps, including the type, scope, and frequency of reporting to senior management;

- Using stress tests to monitor potential future exposure to a single counterparty and across all counterparties over a specified range of possible market movements over a specified time period;
- Managing the impact of credit exposure related to non-cleared security-based swaps on the SBSB's overall risk exposure;
- Determining the need to collect collateral from a particular counterparty, including whether that determination was based upon the creditworthiness of the counterparty and/or the risk of the specific non-cleared security-based swap contracts with the counterparty;
- Monitoring the credit exposure resulting from concentrated positions with a single counterparty and across all counterparties, and during periods of extreme volatility; and
- Maintaining sufficient equity in the account of each counterparty to protect against the largest individual potential future exposure of a non-cleared security-based swap carried in the account of the counterparty as measured by computing the largest maximum possible loss that could result from the exposure.

In addition, paragraph (d)(2) of Rule 18a-3 provides that a nonbank SBSB seeking approval to use a model to calculate initial margin will be subject to an application process consistent with Exchange Act Rule 15c3-1e and paragraph (d) of Exchange Act Rule 18a-1, as applicable, governing the use of internal models to compute net capital. The nonbank SBSB will need to submit sufficient information to allow the Commission to make a determination regarding the performance of the nonbank SBSB's initial margin methodology.<sup>5</sup>

## **2. Purpose and Use of the Information Collection**

Information collections under Rule 18a-3 are integral to the Commission's financial responsibility program for nonbank SBSBs. The program is designed to ensure that nonbank SBSBs effectively manage counterparty risk by monitoring their financial exposures to non-cleared security-based swap counterparties. These information collections will facilitate the collection of adequate levels of margin assets by nonbank SBSBs to protect them against counterparty default on both current and potential future exposures.

Under Rule 18a-3, a nonbank SBSB is required to establish and implement risk monitoring procedures with respect to counterparty accounts. The purpose of the rule is to limit risks to individual firms and systemic risk arising from non-cleared security-based swaps. Firms' records relating to the collection of collateral required by Rule 18a-3 assist examiners in evaluating whether SBSBs are in compliance with requirements in the rule.

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<sup>5</sup> While Rule 18a-3 contains requirements that apply to both nonbank SBSBs and MSBSPs, the particular requirements that constitute a collection of information relate only to nonbank SBSBs.

**3. Consideration Given to Information Technology**

The information collections will not require that respondents use any specific information technology system either to prepare or submit information collections under Rule 18a-3.

**4. Duplication**

This information collection does not duplicate any existing information collection.

**5. Effect on Small Entities**

The information collections required under Rule 18a-3 would not place burdens on small entities. The nonbank SBSDs subject to the information collections under the rule are not expected to be small entities.

**6. Consequences of Not Conducting Collection**

If the required information collections are not conducted or are conducted less frequently, the protection afforded to counterparties and the U.S. financial system would be diminished.

**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 this collection of information was published. No public comments were received.

**9. Payment or Gift**

No payment or gift is provided to respondents.

**10. Confidentiality**

The information collected by the Commission under Rule 18a-3 is kept confidential to the extent permitted by the Freedom of Information Act (5 U.S.C. § 552 *et seq.*).

**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 total annual hour burden associated with Rule 18a-3 is approximately 2,243 hours calculated as follows:

### Counterparty Risk Monitoring Procedures (Rule 18a-3(e))

The Commission staff estimates that there are 7 nonbank SBSBs that are subject to Rule 18a-3. The staff further estimates that each would spend an average of approximately 210 hours establishing and documenting their Rule 18a-3 counterparty risk monitoring procedures, for a one-time industry-wide hour burden of approximately 1,470 recordkeeping hours (490 hours per year when annualized over three years).<sup>6</sup> In addition, the staff estimates that each nonbank SBSB would spend an average of approximately 60 hours per year reviewing risks associated with its counterparties, for an annual industry-wide burden of approximately 420 recordkeeping hours.<sup>7</sup> **Taken together, the annual hour burden for the total industry is approximately 910 hours per year (490 + 420).**<sup>8</sup>

### Initial Margin Model (Rule 18a-3(d))

A nonbank SBSB may use a model to calculate initial margin, if the use of the model has been approved by the Commission. A nonbank SBSB seeking approval to use a margin model will be subject to an application process and ongoing conditions in Rule 15c3-1e and paragraph (d) of Rule 18a-1 governing the use of internal models to compute net capital. A nonbank SBSB seeking approval to use a margin model will need to submit sufficient information to allow the Commission to make a determination regarding the performance of the nonbank SBSB's margin methodology. Based on staff experience, the Commission estimates it will take a nonbank SBSB approximately 50 hours to prepare and submit an application to the Commission to seek authorization to use an internal model to calculate initial margin. The staff estimates that five non-bank SBSBs have sought Commission approval to use an internal model to calculate initial margin, resulting in a total industry-wide one-time hour burden of approximately 250 hours (approximately 83 hours per year when annualized over three years).<sup>9</sup> The Commission also estimates that each nonbank SBSB will spend approximately 250 hours per year reviewing, updating, and back testing their initial margin model, resulting in a total

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<sup>6</sup> 7 nonbank SBSBs x 210 hours = 1,470 hours. These amounts are annualized over three years resulting in 70 (210 hours/3 years) hours per nonbank SBSB per year and an industry wide annual burden of 490 recordkeeping hours (7 x 70 = 490).

<sup>7</sup> 7 nonbank SBSBs x 60 hours = 420 hours.

<sup>8</sup> 490 hours + 420 hours = 910 hours.

<sup>9</sup> 5 nonbank SBSBs x 50 hours = 250 hours. These amounts are annualized over three years resulting in 16.67 (50 hours/3 years) hours per nonbank SBSB per year and an industry wide annual burden of 83.33 recordkeeping hours per year rounded down to 83 hours.

industry-wide annual hour burden of approximately 1,250 recordkeeping hours.<sup>10</sup> **In total, the Commission estimates an annual hour burden of approximately 1,333 hours per year (83 + 1,250).**<sup>11</sup>

Summary of Hour Burdens										
Name of Information Collection	Type of Burden	Number of Entities Impacted	Annual Responses per Entity	Initial Burden per Entity per Response	Initial Burden Annualized per Entity per Response	Ongoing Burden per Entity per Response	Annual Burden Per Entity per Response	Total Annual Burden Per Entity	Total Industry Burden	Small Business Entities Affected
Rule 18a-3(e) (Counterparty Risk Monitoring Procedures)	Recordkeeping	7	1	210.00	70.00	60.00	130.00	130.00	910	0
Rule 18a-3(d) (Initial Margin Model)	Recordkeeping	5	1	50.00	16.67	250.00	266.67	266.67	1,333	0
<b>TOTAL HOURLY BURDEN FOR ALL RESPONDENTS</b>									<b>2,243</b>	

### 13. Costs to Respondents

The total annual cost burden associated with Rule 18a-3 is approximately \$3,333 calculated as follows:

The 7 respondents subject to the collection of information may incur start-up costs in order to comply with this collection of information. These costs may vary depending on the size and complexity of the nonbank SBSB. In addition, the start-up costs may be less for the 2 nonbank SBSB respondents also registered as broker-dealers because these firms may already be subject to similar requirements with respect to other margin rules. For the remaining 5 nonbank SBSBs, because these written procedures may be novel undertakings for these firms, the Commission staff assumes these nonbank SBSBs will have their written risk analysis methodology reviewed by outside counsel. Therefore, the staff estimates that these 5 nonbank SBSBs will engage an outside counsel to review their written risk analysis methodology, at a rate of \$400 per hour for 5 hours (i.e., \$2,000 in legal costs). **This will result in a one-time industry-wide external recordkeeping cost of approximately \$10,000, or \$3,333<sup>12</sup> per year when annualized over 3 years.**

<sup>10</sup> 5 nonbank SBSBs x 250 hours = 1,250 hours.

<sup>11</sup> (250 hours / 3 years) + 1,250 hours = 1,333.33 hours rounded down to 1,333 hours.

<sup>12</sup> 5 nonbank SBSBs x \$400/hour x 5 hours = \$10,000. This amount annualized over three years is \$3,333.33 per year rounded down to \$3,333.

Summary of Dollar Costs										
Name of Information Collection	Type of Burden	Number of Entities Impacted	Annual Responses per Entity	Initial Cost per Entity per Response	Initial Cost Annualized per Entity per Response	Ongoing Cost per Entity per Response	Annual Cost Per Entity per Response	Total Annual Cost Per Entity	Total Industry Cost	Small Business Entities Affected
Rule 18a-3 (Cost Burden)	Recordkeeping	5	1	\$2,000.00	\$666.67	0	\$666.67	\$666.67	3,333	0
<b>TOTAL COST FOR ALL RESPONDENTS</b>									<b>3,333</b>	

**14. Cost to Federal Government**

The staff does not anticipate this information collection to impose additional costs to the Federal Government.

**15. Changes in Burden**

The changes in burden result from the following decreases in the estimates of the number of respondents: (a) the number of SBSDs that are subject to Rule 18a-3 is now estimated to be 7 instead of the previous estimate of 22; (b) the number of SBSDs that have sought Commission approval to use an internal model to calculate initial margin is now estimated to be 5 instead of the previous estimate of 22; and (c) the number of non-bank SBSDs not registered as broker-dealers is now estimated to be 5 rather than the previous estimate of 6.

In addition, as noted in Footnote 1 above, this OMB Control Number 3235-0702 previously included burdens for the collections of information in Rule 18a-10. Since the burdens for that rule are now accounted for in OMB Control Number 3235-0785, the Commission has removed them from Control Number 3235-0702.

A chart summarizing all of the changes in burden is below.

Name of Information Collection	Current Annual Industry Burden	Revised Annual Industry Burden	Change in Burden	Reason for Change
Rule 18a-3(e) (Counterparty Risk Monitoring Procedures)	2,860	910	(1,950)	Change in staff estimate of entities impacted
Rule 18a-3(d) (Initial Margin Model)	5,867	1,333	(4,534)	Change in staff estimate of entities impacted.

Rule 18a-3 (Cost Burden)	\$4,000	\$3,333	(\$667)	Change in staff estimate of entities impacted.
Rule 18a-10(b)(2) (Develop Disclosure Language)	5	0	(5)	Removal of Rule 18a-10 burden from OMB Control Number 3235-0702
Rule 18a-10(b)(2) (Update Disclosure Language)	10,000	0	(10,000)	Removal of Rule 18a-10 burden from OMB Control Number 3235-0702
Rule 18a-10(b)(2) (Update Disclosures)	15	0	(15)	Removal of Rule 18a-10 burden from OMB Control Number 3235-0702
Rule 18a-10(b)(3) (Notices)	1	0	(1)	Removal of Rule 18a-10 burden from OMB Control Number 3235-0702

**16. Information Collected Planned for Statistical Purposes**

Not applicable. The information collection is not used for statistical purposes.

**17. OMB Expiration Date Display Approval**

The Commission is not seeking approval to not display the OMB approval 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.