

SUPPORTING STATEMENT

for the Paperwork Reduction Act Information Collection Submission for

Rules 17h-1T and 17h-2T OMB Control No. 3235-0410

A. JUSTIFICATION

1. Information Collection Necessity

On July 16, 1992, the Commission adopted Rules 17h-1T and 17h-2T (17 CFR 240.17h-1T and 17 CFR 240.17h-2T) (the “risk assessment rules”), under the Securities Exchange Act of 1934 (“Exchange Act”) pursuant to its authority under the risk assessment provisions of the Market Reform Act of 1990 (Pub. L. No. 101-432, 104 Stat. 963 (1990)).¹ These rules are intended to give the Commission access to information concerning the financial and securities activities of certain broker-dealer affiliates. A broker-dealer may be affected by the financial difficulties of an affiliate both directly, such as by the affiliate’s withdrawal of capital to meet the affiliate’s obligations, and indirectly, such as by the effect that the affiliate’s difficulties may have on the broker-dealer’s ability to obtain financing. This impact on a broker-dealer may be exacerbated in times of market stress. Accordingly, Rules 17h-1T and 17h-2T enable the Commission to monitor the activities of broker-dealer affiliates through its access to affiliate information and receipt of reports on a quarterly basis.

Rule 17h-1T requires a covered broker-dealer to maintain and preserve records and other information concerning certain entities that are associated with the broker-dealer. This requirement extends to the financial and securities activities of the holding company, affiliates and subsidiaries of the broker-dealer that are reasonably likely to have a material impact on the financial or operational condition of the broker-dealer. Rule 17h-2T requires a covered broker-dealer to file with the Commission reports concerning the information required to be maintained and preserved under Rule 17h-1T within 60 calendar days of the end of each fiscal quarter. However, Rule 17h-2T also allows a firm to file its year-end financial statements separately from the rest of its fiscal fourth quarter report, within 105 calendar days of the end of that quarter.²

The Commission is statutorily authorized by Section 17(h) of the Exchange Act of 1934 (15 U.S.C. 78q(h)) to adopt rules that require a broker-dealer to maintain and preserve risk assessment information with respect to those entities that are associated with the broker-dealer whose “business activities are reasonably likely to have a material impact on the financial and operational condition” of the broker-dealer. In addition, Section 17(h) authorizes the Commission to adopt rules that require a broker-dealer to file, no more frequently than quarterly,

¹ See *Final Temporary Risk Assessment Rules*, Exchange Act Release 30929 (July 16, 1992), 57 FR 32159 (July 21, 1992).

² Thus, the same information is filed with the Commission whether the broker-dealer files all the information within 60 calendar days of the end of the fiscal fourth quarter or some of the information within 60 calendar days and the rest within 105 calendar days of the end of the fiscal fourth quarter.

summary reports of the information and records maintained pursuant to the risk assessment rules. Further statutory authority is found in Section 23(a) of the Exchange Act (15 U.S.C. 78w).

2. Information Collection Purpose and Use

The information required by Rules 17h-1T and 17h-2T is necessary to enable the Commission to monitor the activities of a covered broker-dealer's affiliate whose business activities are reasonably likely to have a material impact on the financial and operational condition of the broker-dealer. Without this information, the Commission would be unable to assess the potentially damaging impact of the affiliate's activities on the broker-dealer.

3. Consideration Given to Information Technology

Covered broker-dealers have the option to file Form 17H and other required reports electronically through the Commission's BDRA system (similar to uploading an attachment) or by mail.

4. Duplication

We are not aware of duplication of this information.

5. Effect on Small Entities

The risk assessment rules generally do not apply to small entities because a broker-dealer that maintains less than \$20 million in capital and does not carry customer accounts is exempted under the rules. Further, a broker-dealer that either restricts its business to certain mutual fund activities, certain direct participation programs or introduces accounts on a fully disclosed basis is also exempt under the rules. In addition, a broker-dealer that is owned by a natural person is exempt from the risk assessment rules under Section 17(h) of the Exchange Act.

6. Consequences of Not Conducting Collection

The risk assessment rules enable the Commission to monitor the activities of a covered broker-dealer's affiliate whose business activities are reasonably likely to have a material impact on the financial and operational condition of the broker-dealer. This information is collected quarterly. If the information were to be collected less frequently, the Commission would have to rely on stale and outdated information when assessing risks to the broker-dealer. As a result, the Commission would be unable to adequately assess the potentially damaging impact of more recent activities of the broker-dealer affiliates on the broker-dealer.

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

All information obtained by the Commission pursuant to the provisions of Rules 17h-1T and 17h-2T from a broker or dealer concerning a material associated person is deemed confidential information for the purposes of section 24(b) of the Exchange Act.

11. Sensitive Questions

This information collection does not collect personally identifiable information. The agency has determined that neither a Privacy Impact Assessment (“PIA”) nor a System of Records Notice (“SORN”) are required in connection with the collection of information.

12. Information Collection Burden

There are currently 235 respondents that must comply with Rules 17h-1T and 17h-2T. Each of these 235 respondents are estimated to require 10 hours per year to maintain the records required under Rule 17h-1T, for an aggregate estimated annual burden of 2,350 hours (235 respondents X 10 hours).

In addition, each of these 235 respondents must make five annual responses under Rule 17h-2T (for a total of 1,175 responses per year). These five responses are estimated to require 14 hours per respondent per year, for an aggregate estimated annual burden of 3,290 hours (235 respondents X 14 hours).

In addition, new respondents must draft an organizational chart required under Rule 17h-1T and establish a system for complying with the risk assessment rules. The staff estimates that drafting the required organizational chart requires one hour and establishing a system for complying with the rules requires three hours. Based on the reduction in the number of filers in recent years, the staff estimates there will be zero new respondents, and thus, a corresponding estimated burden of zero hours for new respondents. Thus, the total estimated compliance burden per year is 5,640 burden hours (2,350 hours + 3,290 hours).

The staff estimates that approximately two-thirds of the total compliance burden hours, or 3,760 hours, are performed by junior accountants at \$150 per hour, for an estimated internal cost of compliance of \$564,000.³ In addition, the staff estimates that approximately one-third of the

³ The \$150 per hour figure for a Junior Accountant is from the Securities Industry and Financial Markets Association (“SIFMA”), publication entitled Management and Professional Earnings in the Securities

total compliance burden hours, or 1,880 hours, are performed by compliance managers at \$314 per hour for a cost of \$571,480.⁴ Thus, the estimated total internal cost of compliance per year is \$1,135,480 (\$564,000 + \$571,480).

13. Costs to Respondents

The estimated total annual cost burden for Rules 17h-1T and 17h-2T is \$0.

14. Costs to Federal Government

There is no estimated cost to the federal government.

15. Changes in Burden

The change in burden is a result of a decrease in the number of respondents from 285 to 235 and because the staff believes that there will not be a net increase in the number of respondents to begin complying with Rules 17h-1T and 17h-2T for the foreseeable future.

16. Information Collection Planned for Statistical Purposes

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

17. Approval to Omit OMB Expiration

The Commission is not seeking approval to omit the 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

The collection of information does not involve statistical methods.

Industry 2013, modified by Commission staff to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

⁴ See explanation at footnote 3.