

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for Regulation of
NMS Stock Alternative Trading Systems – Rule 304

(OMB Control No. 3235-0763)

Proposed Partial Revision

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

In 1998, the Commission adopted Regulation ATS, which established a new regulatory framework for alternative trading systems (“ATs”), which allows entities that meet the definition of “exchange” under Section 3(a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) and Exchange Act Rule 3b-16(a) thereunder to choose between registering as a national securities exchange or registering as a broker to choose between registering as a national securities exchange or registering as a broker-dealer and complying with Regulation ATS.

Since the adoption of Regulation ATS, the equity markets have evolved substantially and ATs have become a significant source of liquidity in NMS stocks. ATs that trade NMS stocks (“NMS Stock ATs”) generally operate with complexity and sophistication similar to registered national securities exchanges, which, pursuant to applicable laws and regulations, are required to publish their rules.¹ Prior to the adoption of the amendments to Regulation ATS for NMS Stock ATs and adoption of Form ATS-N, the Commission was concerned that the regulatory requirements relating to operational transparency for NMS Stock ATs no longer fully met the goals of furthering the public interest and protecting investors. Accordingly, in 2018, the Commission adopted amendments to Regulation ATS (including new Rule 304) and adopted Form ATS-N to require NMS Stock ATs to provide information to the public about their manner of operations, the broker-dealer operator, and the ATS-related activities of the broker-dealer operator of the NMS Stock ATS (“broker-dealer operator”) and its affiliates.²

Rule 304 of Regulation ATS provides conditions for NMS Stock ATs seeking to rely on the exemption from the definition of “exchange” provided by Rule 3a1-1(a) of the Exchange Act, including to file a Form ATS-N, and for that Form ATS-N to become effective.³ Form ATS-N requires NMS Stock ATs to provide information about their manner of operations, the broker-dealer operator, and the ATS-related activities of the broker-dealer operator and its

¹ 15 U.S.C. 78s(b)(1).

² See Securities Exchange Act Release No. 83663 (July 18, 2018), 83 FR 38769 (August 7, 2018) (“NMS Stock ATS Adopting Release”).

³ The Commission also adopted conforming amendments to Rule 300 of Regulation ATS and Exchange Act Rule 3a1-1(a). See id.

affiliates. The amendments to Regulation ATS also provide a process for the Commission to review Form ATS-N filings and, after notice and opportunity for hearing, declare an NMS Stock ATS's Form ATS-N ineffective. Additionally, as amended, Regulation ATS requires public posting of Form ATS-N filings on the Commission's website, which is accomplished through the Commission's Electronic Data Gathering, Analysis, and Retrieval system ("EDGAR"), and requires each NMS Stock ATS that has a website to post on its website a direct URL hyperlink to the Commission's website.

Form ATS-N promotes more efficient and effective market operations by providing more transparency to market participants to assess the operations of NMS Stock ATSs and the potential conflicts of interest of the controlling broker-dealer operator and its affiliates. Operational transparency rules, including Form ATS-N, are designed to increase competition among trading centers in regard to order routing and execution quality.

2022 Proposed Rulemaking Affecting this OMB Control Number

In January 2022, the Commission proposed amendments to Regulation ATS and Exchange Act Rule 3b-16, which defines certain terms in the definition of "exchange" under section 3(a)(1) of the Exchange Act.⁴ In April 2023, the Commission provided supplemental information and reopened the comment period for the 2022 Reg ATS Proposing Release.⁵ These proposed amendments would increase the number of respondents for the collections of information in several rules, including this one. This revision also increases certain hour burdens related to proposed changes to Form ATS-N, as described below.

The Commission assumed in both the 2022 Reg ATS Proposing and 2023 Reg ATS Reopening Releases that, under the proposed amendments, systems that would be newly captured under the proposed definition of "exchange" will choose to register as broker-dealers and comply with the conditions of Regulation ATS rather than register as a national securities exchange, because of the lighter regulatory requirements imposed on ATSs, as compared to

⁴ See Securities Exchange Act Release No. 94062 (Jan. 26, 2022), 87 FR 15496 (Mar. 18, 2022) ("2022 Reg ATS Proposing Release"). The Commission proposed to, among other things: (1) amend Rule 3b-16 under the Exchange Act to, among other things, include within the definition of "exchange" systems that offer the use of non-firm trading interest and provide non-discretionary protocols to bring together buyers and sellers of securities; (2) eliminate the exemption from compliance with Regulation ATS for ATSs that trade government securities as defined under Section 3(a)(42) of the Exchange Act ("government securities") or repurchase and reverse repurchase agreements on government securities ("Government Securities ATSs"); and (3) amend Form ATS-N for NMS Stock ATSs and Government Securities ATSs.

⁵ See Securities Exchange Act Release No. 97309 (Apr. 14, 2023), 88 FR 29448 (May 5, 2023) ("2023 Reg ATS Reopening Release"). The Commission reopened the comment period for the 2022 Reg ATS Proposing Release and provided supplemental information and economic analysis regarding trading systems that trade crypto asset securities that would be newly included in the definition of "exchange" under the proposal.

registered exchanges.⁶ Accordingly, this revision to the PRA analysis for Rule 304 increases the estimated number of respondents, in light of the 2022 Reg ATS Proposing and 2023 Reg ATS Reopening Releases, to include both (1) Government Securities ATSs that were formerly not required to comply with Regulation ATS under the 17 CFR 240.3a1-1(a)(3) (Exchange Act Rule 3a1-1(a)(3)) exemption and (2) systems that would be newly captured under the proposed definition of “exchange” and choose to register as broker-dealers and comply with the conditions of Regulation ATS rather than register as national securities exchanges. Additionally, this revision also increases certain hour burdens related to proposed changes to Form ATS-N, as described below, which would apply to new and existing respondents.

2. Purpose and Use of the Information Collection

Rule 304 of Regulation ATS states that no exemption from the definition of “exchange” is available to an NMS Stock ATS, or a Government Securities ATS, as proposed, pursuant to § 240.3a1-1(a)(2) unless the NMS Stock ATS, or a Government Securities ATS, as proposed, files with the Commission an initial Form ATS-N, in accordance with the instructions therein, and the initial Form ATS-N is effective. Form ATS-N requires NMS Stock ATSs, and Government Securities ATSs, as proposed, to provide information to the public about the broker-dealer operator of the ATS and the ATS-related activities of the broker-dealer operator and its affiliates. Form ATS-N also requires NMS Stock ATSs, and Government Securities ATSs, as proposed, to provide certain information about the manner of operations of the ATS and the ATS’s contact information.

Form ATS-N is designed to provide the public with greater transparency around the operations of NMS Stock ATSs, and Government Securities ATSs, as proposed, and potential conflicts of interest that may arise involving the broker-dealer operator and its affiliates. Among other things, these enhanced, public disclosures also are designed to limit the potential that a broker-dealer operator of an ATS could provide certain subscribers with greater disclosure about the operations and system functionalities of the ATS than it provides to other market participants.

We believe that the information required on Form ATS-N about the operations of NMS Stock ATSs, and Government Securities ATSs, as proposed, and the ATS-related activities of the broker-dealer operators and the broker-dealer operators’ affiliates helps market participants evaluate whether to do business with an ATS and make more informed decisions about where to route their orders. We also believe that the transparency about the operations of NMS Stock ATSs, and Government Securities ATSs, as proposed, that Form ATS-N provides may aid market participants in their assessment of these trading venues as potential destination of their orders. In addition, we believe that Form ATS-N may also help customers of broker-dealers, whose orders are routed to an NMS Stock ATS, or a Government Securities ATS, as proposed, for possible execution in the ATS, evaluate whether their broker-dealers fulfilled their duty of best execution.

⁶ See 2022 Reg ATS Proposing Release, supra note 4, at 15618 n.1056 and accompanying text.

The information provided pursuant to Rule 304 also helps the Commission monitor NMS Stock ATSS, and Government Securities ATSS, as proposed, for the purpose of protecting investors.

3. Consideration Given to Information Technology

Form ATS-N is filed electronically in a structured format through EDGAR. By filing in EDGAR, NMS Stock ATSS, and Government Securities ATSS, as proposed, are given the option of filing using a web-fillable Form ATS-N which will render into XML in EDGAR, or to file directly in XML using the XML schema for NMS Stock ATSS, and Government Securities ATSS, as proposed, as published on the Commission's website. With both options, we receive the Form ATS-N information in XML format. ATSS that would prefer to manually key in all of their Form ATS-N responses can do so using the Commission's web-fillable Form ATS-N, which will render into XML in EDGAR. The Commission's XML schema and the Commission's web-fillable Form ATS-N both reflect the same set of custom XML tags and XML restrictions designed by the Commission to submit the disclosures in Form ATS-N. Based on the widespread use and availability of the Internet, we believe that filing Form ATS-N in an electronic format is an efficient filing process.

Form ATS-N requires NMS Stock ATSS, and Government Securities ATSS, as proposed, to file the form electronically via EDGAR with a typed signature. This requirement is intended to provide a uniform manner in which we receive—and the broker-dealer operator files—the Form ATS-N pursuant to Rule 304 of Regulation ATS. We believe that the XML format allows the Commission and the public to better gather, analyze, aggregate, compare, and use the Form ATS-N data. Requiring XML should result in the Form ATS-N data being provided in a consistent, structured format. This consistent structure can be automatically recognized and processed by a variety of software applications such as databases, financial reporting systems, and spreadsheets, and then made immediately available to the end user to search, aggregate, compare, and analyze.

4. Duplication

If the broker-dealer operator operates ATSS that trade both NMS stocks (and government securities, as proposed) and non-NMS stocks (and non-government securities, as proposed), certain information the NMS Stock ATS (or the Government Securities ATS, as proposed) provides on its Form ATS-N may be found on Form ATS. We do not consider this information duplicative because the Form ATS is not required to be made public. In addition, Form ATS discloses only limited aspects of an ATS's operations, and we believe that even where an ATS has voluntarily made public its Form ATS,⁷ market participants might not be able to obtain as complete an understanding of how the ATS operates.

5. Effect on Small Entities

⁷ We note that some ATSS have chosen to make Form ATS filings publicly available.

Under the Regulatory Flexibility Act (“RFA”)⁸ a small entity includes a broker or dealer that: (1) has total capital (net worth plus subordinated liabilities) of less than \$500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a-5(d) under the Exchange Act,⁹ or, if not required to file such statements, a broker-dealer with total capital (net worth plus subordinated liabilities) of less than \$500,000 on the last day of the preceding fiscal year (or in the time that it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization.¹⁰

We examined recent Financial and Operational Combined Uniform Single (“FOCUS”) data for the 34 broker-dealer operators for NMS Stock ATSs that have an effective Form ATS-N on file and concluded that no more than 1 of the broker-dealer operators of NMS Stock ATSs had total capital of less than \$500,000 on the last day of the preceding fiscal year (or in the time that it has been in business, if shorter) and were not affiliated with any person that is not a small business or small organization. We do not believe that Rule 304, including the requirement for NMS Stock ATSs to file Form ATS-N amendments, will represent a significant economic impact on this entity.

In addition, we examined recent FOCUS data for the 17 broker-dealers that currently operate ATSs that trade government securities and repurchase and reverse repurchase agreements on government securities (“repo”) and are operating as of the effective date of any final rule, regardless of whether the ATSs are operating pursuant to an initial operation report on Form ATS on file with the Commission (“Legacy Government Securities ATSs”). We concluded that one of the broker-dealer operators of these ATSs had total capital of less than \$500,000 on the last day of Fiscal Year 2021 (or in the time that it has been in business, if shorter). We note that this broker-dealer operator has never reported any volume in any government security or repo to the Commission on Form ATS-R. Given that this ATS has never reported any transaction volume in government securities to the Commission, we believe that this ATS is unlikely to submit a Form ATS-N if the proposed amendments to Regulation ATS are adopted. We examined recent FOCUS data for 4 broker-dealers that we estimate are (“Currently Exempted Government Securities ATSs”) and concluded that none of the broker-dealer operators of ATSs that currently trade government securities had total capital of less than \$500,000 on the last day of Fiscal Year 2021 (or in the time that it has been in business, if shorter). We also recently examined FOCUS data for 7 systems that we estimate are trading

⁸ Although Section 601(b) of the RFA defines the term “small entity,” the statute permits agencies to formulate their own definitions. We have adopted definitions for the term “small entity” for the purposes of Commission rulemaking in accordance with the RFA. Those definitions, as relevant to this rulemaking, are set forth in Rule 0-10 under the Exchange Act, 17 CFR 240.0-10. See Securities Exchange Act Release No. 18451 (January 28, 1982), 47 FR 5215 (February 4, 1982) (File No. AS-305).

⁹ 17 CFR 240.17a-5(d).

¹⁰ See 17 CFR 240.0-10(c).

systems that meet the criteria of Exchange Act Rule 3b-16(a), as proposed to be amended (“New Rule 3b-16(a) Systems”)¹¹ operated by broker-dealers or affiliates of broker-dealers and trade various securities asset classes including, among others, government securities. We concluded that none of these broker-dealer operators of ATSs had total capital of less than \$500,000 on the last day of the Fiscal Year 2021 (or in the time that it has been in business, if shorter). Consequently, we believe the proposed amendments to Rule 304 would not, if adopted, have a significant economic impact on a substantial number of small entities.

6. Consequences of Not Conducting Collection

Without the information required by Rule 304, we would not have readily available information on a regular basis in a format that would allow us to evaluate the operation of ATSs with regard to national market system goals, and monitor the competitive effects of these systems to ascertain whether the regulatory framework remains appropriate to the operation of such systems. Without the data required by Form ATS-N, the public would have less information concerning NMS Stock ATSs, or Government Securities ATSs, as proposed, available to them when selecting a trading venue.

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

In the 2022 Reg ATS Proposing Release, the Commission solicited comment on the accuracy of the burden of the proposed revisions to the seven collections of information contained in the proposal.¹² The Commission received general comments questioning whether the Commission had underestimated the number of newly-designated ATSs, particularly systems that trade crypto asset securities and systems commenters characterize as decentralized finance or “DeFi,”¹³ which would, in turn, affect the number of estimated respondents for the collections

¹¹ Such systems were referred to as “Communication Protocol Systems” in the 2022 Reg ATS Proposing Release.

¹² See 2022 Reg ATS Proposing Release, *supra* note 4, at 15593.

¹³ See Letter from Gregory Babyak and Gary Stone, Regulatory Affairs, Bloomberg L.P., dated Sept. 21, 2022 (“Bloomberg Letter”), at 2; Letter from Robert Toomey, Managing Director, Associate General Counsel, SIFMA, dated Jun. 13 2022, at 5-6; Letter from Gus Coldebella and Gregory Xethalis, dated Apr. 19, 2022, at 4-5; Letter from Sheila Warren, Chief Executive Officer, Crypto Council for Innovation, dated Apr. 18, 2022, at 4; Letter from Kristin Smith, Executive Director, and Jake Chervinsk, Head of Policy, Blockchain Association, dated Apr. 18, 2022, at 7-8; Letter from Renata K. Szkoda, Chair, Global Digital Asset & Cryptocurrency Association, dated Apr. 18, 2022, at 6; Letter from LeXpunk, dated Apr. 18, 2022, at 11; Letter from Miller Whitehouse-Levine, Policy Director, DeFi Education Fund, dated Apr. 18, 2022, at 16-17; Letter from

of information in this OMB Control Number. In the 2023 Reg ATS Reopening Release, the Commission increased the estimated number of respondents for this collection of information specifically to account for the types of systems raised by commenters, as detailed below. The Commission received specific comments on the burden estimate for Rule 304. One commenter stated that the costs of Part III of Form ATS-N, as proposed to be revised, will be different depending upon the platform, and that the cost would be per platform rather than per entity, because entities probably have different dedicated engineering teams and product managers per platform.¹⁴

The Commission has also solicited comment on the revised PRA analysis in the 2023 Reg ATS Reopening Release,¹⁵ but has not yet received specific comments on that topic. The Commission will consider all comments received before adoption of a final rule.

9. Payment or Gift

Not applicable.

10. Confidentiality

The following will be publicly posted on the Commission's website: (i) order of ineffective Form ATS-N; (ii) effective initial Form ATS-N, as amended; (iii) Form ATS-N amendment to an effective Form ATS-N; (iv) order of ineffective Form ATS-N amendment; (vi) notice of cessation; and (vii) order suspending, limiting, or revoking the exemption from the definition of an "exchange" pursuant to Exchange Act Rule 3a1-1(a)(2).

11. Sensitive Questions

The information collection collects basic personally identifiable information that may include name, and work contact information. However, the agency has determined that the information collection does not constitute a system of record for purposes of the Privacy Act. Information is not retrieved by a personal identifier. The information collection is covered by the EDGAR PIA.

12. Burden of Information Collection

The total annual burden associated with Rule 304 is approximately 5,162.5 hours, as calculated and described below.

a. Initial Form ATS-N

Paul Grewal, Chief Legal Officer, Coinbase, dated Apr. 18, 2022, at 6; Letter from Teana Baker-Taylor, Chief Policy Officer, Chamber of Digital Commerce, et al., dated Mar. 24, 2022, at 5; all available at <https://www.sec.gov/comments/s7-02-22/s70222.htm>.

¹⁴ See Bloomberg Letter, *supra* note 13, at 4, 7-8.

¹⁵ See 2023 Reg ATS Proposing Release, *supra* note 6, at 29469.

An NMS Stock ATS must file an initial Form ATS-N on EDGAR,¹⁶ and the initial Form ATS-N must be effective in order to operate pursuant to the Exchange Act Rule 3a1-1(a)(2) exemption. We estimate that filing Form ATS-N, on average, requires an estimated 136.4 burden hours.¹⁷ This would result in a total one-time burden of approximately 1,227.6 hours for all new NMS Stock ATSs or approximately 409 hours per year.¹⁸ The amendments to Form ATS-N proposed in the 2022 Reg ATS Proposing would add a one-time annualized burden of 1,501.5 total hours for 33 proposed new respondents on Form ATS-N¹⁹ for a total burden of 1,910.5 hours (409

¹⁶ For a Form ATS-N filer to gain access to make filings on EDGAR, the filer must submit a Form ID as required by Regulation S-T Rule 10(b) and submit the Form ID following the processes detailed in Volume I of the EDGAR Filer Manual. We estimate that the burden associated with receiving access to EDGAR by submitting a Form ID is 0.15 burden hours per response, which is consistent with the currently approved burden estimate for Form ID (OMB No. 3235-0328).

¹⁷ (Current Baseline to complete an initial Form ATS at 20 hours) + (Part I at 0.5 hour) + (Part II at an average of 29 hours) + (Part III at an average of 78.75 hours) + (Access to EDGAR at 0.15 hours) = 128.4 burden hours. The aggregate totals by professional, including the baseline, are estimated to be approximately 54.6 hours for an Attorney, 0.5 hours for a Chief Compliance Manager, 34.55 hours for a Compliance Manager, 30.25 hours for a Senior Systems Analyst, 1 hour for a Senior Marketing Manager, and 7.5 hours for a Compliance Clerk. This estimated burden for a Form ATS-N includes the hour burden associated with completing Part III, Items 24 and 25 of Form ATS-N. We believe that the majority of NMS Stock ATSs and Government Securities ATSs would not be required to complete those items of the form. The Commission has proposed amendments to Form ATS-N, see 2022 Reg ATS Proposing Release, supra note 4, Section IV.D, that it estimates would add an additional burden of 6 hours per filing (Attorney at 2.5 hours, Compliance Manager at 1.5 hours, Senior Systems Analyst at 1.5 hours, and Compliance Clerk at 0.5 hours), and therefore the average compliance burden for each new Form ATS-N filer would be 136.4 hours. See id. at 15591 n.781 and accompanying text.

¹⁸ As of September 20, 2021, there are 34 NMS Stock ATSs that have Form ATS-N on file with the Commission. Based on the number of NMS Stock ATSs that filed initial Form ATS-N with the Commission in 2020 and 2021, we estimate that there will be 3 new NMS Stock ATSs each year. We therefore estimate that 9 entities would be required to complete initial Form ATS-N over the next three years. The annual one-time burden of 136.4 hours when annualized over a three-year period results in an annual per-ATS burden of 45.47 hours and an industry-wide aggregate burden of 409 burden hours (9 respondents x 45.47 hours = 409.23 hours, rounded down to 409 hours).

¹⁹ The Commission estimates 33 respondents that would be required to newly file on Form ATS-N. See 2022 Reg ATS Proposing Release, supra note 4, at 15592 (estimating 24 Government Securities ATSs); 2023 Reg ATS Reopening Release, supra note 5, at 29468

+ 1,501.5). The proposed amendments would also create a new one-time annualized burden of 91 total hours for all 34 existing Form ATS-N filers.²⁰

b. Form ATS-N Amendments

Rule 304 also includes a process for NMS Stock ATSs to file amendments to Form ATS-N to provide the public notice of changes to their operations and the ATS-related activities of the broker-dealer operator of the NMS Stock ATS and its affiliates. Rule 304(a)(2) of Regulation ATS contain four general categories of required amendments for Form ATS-N.²¹ In the NMS Stock ATS Adopting Release, we estimated that NMS Stock ATSs would submit 3 amendments, on average, each year.²² As discussed above, there are 34 current Form ATS-N respondents and 33 new respondents estimated to be added by the 2022 Reg ATS Proposing and 2023 Reg ATS Reopening Releases, for a total of 67 respondents. Based on our experience with NMS Stock ATSs filing Form ATS-N amendments, we now estimate that the 67 respondents²³ would file 5 Form ATS-N amendments each year,²⁴ for an estimated total of 335 Form ATS-N amendments.²⁵

(estimating 9 newly-designated ATSs). Accordingly, the total annualized one-time burden is 1,501 burden hours (33 respondents x 45.47 hours = 1,500.51 hours, rounded down to 1,501.5 hours).

²⁰ The Commission estimates the proposal would impose upon the 34 current Form ATS-N filers a one-time burden of 8 hours: the marginal burden of 6 hours to respond to the revised items in the form proposed in the 2022 Reg ATS Proposing Release (see supra note 12) + 2 hours for a Compliance Clerk to reorganize their current Form ATS disclosures to respond to revised Form ATS-N. See also 2022 Reg ATS Proposing Release, supra note 4, at 15591 n.783 and accompanying text. The 8-hour burden annualized over three years is 2.67 hours per respondent. Accordingly, the annualized one-time burden is 91 hours (34 respondents x 2.67 hours = 90.78 hours, rounded up to 91 hours).

²¹ In the 2022 Reg ATS Proposing Release, we proposed a new fee amendment type. See 2022 Reg ATS Proposing Release, supra note 4, section VI.A.

²² See NMS Stock ATS Adopting Release, supra note 2, at Section IX.D.2.b.ii.B.

²³ We estimate that there will be 3 new NMS Stock ATSs each year, and that 3 respondents will file a cessation of operation report on Form ATS-N each year. See infra Section A.12.c. Accordingly, we estimate that 67 entities would be required to Form ATS-N amendments.

²⁴ In the fiscal year of 2020, NMS Stock ATSs filed 185 Form ATS-N amendments, or an average of 5 amendments per ATS.

²⁵ 67 respondents x 5 Form ATS-N amendments per year = 335 Form ATS-N amendments per year.

We estimate that the current hour burden related to an amendment to Form ATS-N is approximately 9.4 hours per amendment.²⁶ This would result in an aggregate annual burden for all NMS Stock ATSs of approximately 3,149 hours.²⁷

c. Notice of Cessation on Form ATS-N

From April 2019 through June 2021, there have been an average of 3 NMS Stock ATSs that ceased operations each year. Although it is unclear how many NMS Stock ATSs (or Government Securities ATSs) might cease operations each year going forward, for purposes of providing a PRA burden estimate, we are estimating that this average would generally remain the same for NMS Stock ATSs (or Government Securities ATSs) as economic conditions, business reasons, and other factors may cause some ATSs to cease operations. Accordingly, we estimate that 3 respondents may file a cessation of operation report on Form ATS-N each year.

For Form ATS-N, the requirement is to check the appropriate box indicating that the ATS is ceasing operations and to provide the date the ATS expects to cease operating. We estimate that the average compliance burden for each respondent will be approximately 2 hours.²⁸ This will result in a total annual burden of approximately 6 hours for all NMS Stock ATSs and Government Securities ATSs, as proposed, that choose to cease operations and submit a cessation of operation report on Form ATS-N.²⁹

d. Public Posting on ATS's Website

Rule 304(b)(3) will require each NMS Stock ATS or Government Securities ATS, as proposed, to make public via posting on the ATS's website, a direct URL hyperlink to the Commission's website that contains the documents enumerated in Rule 304(b)(2). We estimate that each new NMS Stock ATS, or Government Securities ATS, as proposed, will incur an initial, one-time burden to program and configure its website to post the required direct URL hyperlink pursuant to Rule 304(b)(3). We estimate that this initial, one-time burden would be approximately 2 hours for each new ATS or approximately 0.67 hours per new NMS Stock ATS when annualized over three years, in part because many broker-dealer operators currently maintain a website for their ATSs.³⁰ We estimate that nine new NMS Stock ATSs over three years would incur this initial, one-time burden each year for a total initial one-time burden of

²⁶ Attorney at 5.5 hours + Compliance Manager at 2 hours + Compliance Clerk at 1.9 hours = 9.4 burden hours. This burden was not modified by the 2022 Reg ATS Proposing and 2023 Reg ATS Reopening Releases.

²⁷ 335 amendments per year x 9.4 hours = 3,149 aggregate burden hours.

²⁸ Attorney at 1.5 hours + Compliance Clerk at 0.5 hours = 2 burden hours.

²⁹ 2 burden hours x 3 NMS Stock ATSs = 6 aggregate annual burden hours.

³⁰ Senior Systems Analyst at 2 burden hours.

approximately 18 hours or 6 hours per year when annualized over three years.³¹

e. Aggregate Respondent Reporting Burdens

The estimated average annual aggregate burden for alternative trading systems to comply with Rule 304 would be approximately 5,162.5 hours. This estimate is broken down as follows:

Name of Information Collection	Type of Burden	# Entities Impacted	Annual Responses per Entity	Initial Burden per Entity	Initial Burden Annualized per Entity	Ongoing Burden per Entity	Annual Burden Per Entity per Response	Total Annual Burden Per Entity	Total Annual Industry Burden
Form ATS-N Initial Operation Report (Rule 304)	Reporting	42	1	136.40	45.47	0.00	45.47	45.47	1,910.5
Form ATS-N Initial Operation Report (Rule 304) – one-time updates for existing filers	Reporting	34	1	8	2.67	0.00	2.67	2.67	91
Form ATS-N Amendments (Rule 304)	Reporting	67	5	0.00	0.00	47.00	9.40	47.00	3,149
Form ATS-N Cessation of Operations Report (Rule 304)	Reporting	3	1	0.00	0.00	2.00	2.00	2.00	6
Public Posting on NMS Stock ATS's Website (Rule 304)	Reporting	9	1	2.00	0.67	0.00	0.67	0.67	6
TOTAL HOURLY BURDEN FOR ALL RESPONDENTS								97.81	5,162.5

³¹ Senior Systems Analyst at 2 hours x 3 new NMS Stock ATSS x 3 years = 18 burden hours. This burden is annualized over a three-year period for an annual burden of 2 burden hours per ATS, and an aggregate industry-wide burden of 6 burden hours.

13. Costs to Respondents

Not applicable. We do not anticipate that respondents will have to incur any capital or start-up costs, nor any additional operational or maintenance costs (other than as provided in Item 12), to comply with the collection of information requirements associated with Rule 304 and Form ATS-N.

14. Cost to Federal Government

Not applicable. The amendments to Regulation ATS as well as Rule 304 and Form ATS-N will 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.

15. Changes in Burden

As compared to the time burdens identified in the Commission’s previous PRA Submission, the estimated time burdens associated with Rule 304 of Regulation ATS have increased 3,120.5 hours from 2,042 to 5,162.5 hours. This is primarily as a result of an increase in the number of respondents estimated in the 2022 Reg ATS Proposing and 2023 Reopening Releases, as detailed above, but also a result of an increase in the hourly burden associated with filing on Form ATS-N due to proposed changes to that form. This increase is broken down as follows:

Information Collection Requirement	Proposed Annual Industry Burden	Annual Industry Burden Previously Approved	Change in Burden	Reason for Change
Form ATS-N Initial Operation Report (Rule 304)	1,910.5 hours	385 hours	1,525.5 hours	Increase in number of respondents from 9 to 42 and individual burden from 42.80 hours to 45.47 hours due to proposed rulemaking.
Form ATS-N Initial Operation Report (Rule 304) – one-time update for existing filers	91 hours	N/A	91 hours	New one-time burden due to proposed rulemaking.
Form ATS-N Amendments (Rule 304)	3,149 hours	1,645 hours	1,504 hours	Increase in number of respondents from 34 to 67 due to proposed rulemaking.
TOTAL CHANGE			3,120.5	

IN BURDEN			hours	
-----------	--	--	-------	--

16. Information Collection Planned for Statistical Purposes

Not applicable. The information collections above are not planned for statistical purposes.

17. OMB Expiration Date Display Approval

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

This collection does not involve statistical methods.