

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 6a-4 and Form 1-N
OMB Control No. 3235-0554

Proposed 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. Information Collection Necessity

The Securities Exchange Act of 1934 (“Exchange Act”) provides a framework for self-regulation under which various entities involved in the securities business, including national securities exchanges, have primary responsibility for regulating their members or participants. The role of the Securities and Exchange Commission (“SEC”) in this framework is primarily one of oversight: the Exchange Act charges the SEC with supervising the national securities exchanges and assuring that each complies with and advances the policies of the Exchange Act.

The Exchange Act was amended by the Commodity Futures Modernization Act of 2000 (“CFMA”), which allows the trading of futures on individual stocks or on narrow-based stock indexes (collectively, “security futures products”). Under the CFMA, markets that wish to trade security futures products are regulated jointly by the SEC and the Commodity Futures Trading Commission (“CFTC”). The Exchange Act, as amended by the CFMA, provides that futures exchanges that meet certain criteria and that wish to trade security futures products must file notice with the SEC to become a “Security Futures Product Exchange.”¹

Rule 6a-4² sets out procedures for filing such notices with the SEC on Form 1-N.³ Form 1-N calls for information regarding: how the futures exchange operates, its rules and procedures, corporate governance, its criteria for membership, its subsidiaries and affiliates, and the security futures products it intends to trade. Rule 6a-4 also requires existing Security Futures Product Exchanges to file: (1) amendments to Form 1-N in the event of material changes to the information provided in the initial Form 1-N; (2) annual and three-year updates of certain information provided in the initial Form 1-N; (3) certain information that is provided to the exchange’s members; and (4) a monthly report summarizing the exchange’s trading of security futures products.

2023 Proposed Rule

The SEC proposes to amend Rule 6a-4, as well as Form 1-N and the instructions to Form 1-N, to require the electronic filing on the Electronic Data Gathering, Analysis, and Retrieval

¹ See 15 U.S.C. 78f(g).

² 17 CFR 240.6a-4.

³ 17 CFR 249.10.

system (“EDGAR”) of all submissions required by the rule and forms. The SEC believes that, among other benefits, these proposed amendments should increase efficiencies and decrease overall burdens related to the filing of these forms. Filing on EDGAR should require less time than preparing and submitting paper filings.

2. Information Collection Purpose and Use

The information obtained under Rule 6a-4 and Form 1-N provides the SEC with basic information about exchanges that trade security futures products. This information assists the SEC to ascertain that such exchanges’ activities do not conflict with the Exchange Act and, thus, assists the SEC’s efforts to protect investors and the public interest. An entity that is not already registered with the SEC and that does not comply with proposed Rule 6a-4 by filing the Form 1-N is not permitted to trade security futures products.

3. Consideration Given to Information Technology

The proposed rule would leverage information technology by transforming Form 1-N from paper to electronic format. The proposed rule would also amend Rule 6a-4 to enable the submission of certain required information electronically. Rule 6a-4 would also continue to permit respondents to make certain information available on the Internet and to notify the SEC of its web location.

4. Duplication

Because the CFTC shares jurisdiction with the SEC to regulate the markets for security futures products, much of the information collected by the SEC also is collected by the CFTC. The Exchange Act, as amended by the CFMA, provides that, if a futures exchange has filed documents with the CFTC, to the extent that such documents contain information satisfying the SEC’s informational requirements, copies of such documents may be filed with the SEC in lieu of the SEC’s required written notice.⁴ In addition, under the proposed rule, Rule 6a-4 would continue to provide that, in lieu of submitting certain information, a Security Futures Product Exchange may simply provide the SEC with the location of the website where such information may be found.

5. Effect on Small Entities

Not applicable. None of the entities that will file notice to become Security Futures Product Exchanges and trade security futures products is a small business entity.

6. Consequences of Not Conducting Collection

To become a Security Futures Product Exchange, an entity must file a single Form 1-N. Therefore, less frequent collection is not feasible. After an entity files the initial Form 1-N and becomes a Security Futures Product Exchange, Rule 6a-4 requires the entity to file: (1) amendments to Form 1-N in the event of material changes to the information provided in the initial Form 1-N; (2) periodic updates of certain information provided in the initial Form 1-N; (3)

⁴ See 15 U.S.C. 78f(g)(2)(A).

certain information that is provided to the exchange's members; and (4) a monthly report summarizing the exchange's trading of security futures products. Any less frequent collection of information would deprive the SEC of up-to-date information that is necessary to regulate Security Futures Product Exchanges in accordance with the Exchange Act.

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

There are no special circumstances. The collection of information is consistent with 5 CFR 1320.5(d)(2).

8. Consultations Outside the Agency

The SEC has issued a release soliciting comment on the proposed rule and associated paperwork burdens. A copy of the release is attached. Comments on SEC releases are generally received from registrants, investors, and other market participants. In addition, the SEC and staff participate in ongoing dialogue with representatives of various market participants through public conferences, meetings, and informal exchanges. Any comments received on this proposed rulemaking will be posted on the SEC's public website and made available through <http://www.sec.gov/rules/proposed.shtml>. The SEC will consider all comments received prior to publishing the final rule, and will explain in any adopting release how the final rule responds to such comments, in accordance with 5 CFR 1320.11(f).

9. Payment or Gift

Not applicable. Rule 6a-4 and Form 1-N do not contemplate providing payments or gifts to respondents.

10. Confidentiality

Not applicable. Under the proposed rule, information provided on Form 1-N would continue to be publicly available.

11. Sensitive Questions

Form 1-N collects information regarding how the futures exchange operates, its rules and procedures, corporate governance, its criteria for membership, its subsidiaries and affiliates, and the security futures products it intends to trade. The information collection collects basic elements of PII including name, job title, and work address that is covered by the EDGAR PIA. No information of a sensitive nature, including social security numbers, will be required under this collection of information. Additionally, the SEC 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.

12. Information Collection Burden

a. Total Burden

The SEC estimates that the total annual burden for all Security Futures Product Exchanges (two exchanges) to comply with Rule 6a-4 after initial filing is 81 hours.⁵ This burden consists of: (1) 28 hours for two respondents combined to prepare and submit periodic amendments to Form 1-N required under Rule 6a-4(b)(1); (2) 28 hours for two respondents combined to prepare annual amendments to Form 1-N required under Rule 6a-4(b)(3); (3) 13 hours for two respondents combined to prepare and submit 3-year amendments to Form 1-N required under Rule 6a-4(b)(4); and (4) 12 hours for two respondents combined to prepare and submit supplementary materials and monthly reports.

b. Periodic Amendments

Rule 6a-4(b)(1) requires existing Security Futures Product Exchanges to file an amendment to Form 1-N whenever material information supplied in the initial Form 1-N changes and to update certain information on a periodic basis.

In its most recent Paperwork Reduction Act submission for Form 1-N and Rule 6a-4, the SEC estimated that each respondent would file one amendment or periodic update per year at a burden of 15 hours per response for a total of 30 hours for all respondents (15 hours x 1 response x 2 respondents).

The proposed rule would not change the number of respondents or the frequency of responses. However, the SEC estimates that periodic amendments to Form 1-N electronically would require one fewer hour of clerical work from the current baseline under the proposed rule. Therefore, the aggregate ongoing burden on all respondents submitting periodic amendments electronically would be two hours fewer than the current baseline. **Accordingly, the SEC estimates that the aggregate burden on all respondents to submit periodic amendments to Form 1-N would be 28 hours** (14 hours per response x 1 response per year x 2 respondents).

c. Annual Amendments

Rule 6a-4(b)(3) requires existing Security Futures Product Exchanges to file an amendment to Form 1-N at certain mandatory intervals. Every year, a Security Futures Product Exchange shall file, as an amendment to Form 1-N, Exhibits F, H, and I.

In its most recent Paperwork Reduction Act submission for Form 1-N and Rule 6a-4, the SEC estimated that each respondent would file one annual amendment per year at a burden of 15 hours per response for a total of 30 hours for all respondents (15 hours x 1 response x 2 respondents).

⁵ SEC believes that initial filings will be infrequent, if ever. Therefore, the SEC estimate the burden for initial Form 1-N filings is 0 hours.

The proposed rule would not change the number of respondents or the frequency of responses. However, the SEC estimates that filing annual amendments to Form 1-N electronically would require 1 fewer hour of clerical work from the current baseline. The aggregate burden on all respondents submitting annual amendments electronically would be two hours fewer than the current baseline. **Accordingly, the SEC estimates that the aggregate burden on all respondents to provide annual amendments to Form 1-N would be 28 hours** (14 hours per response x 1 response per year x 2 respondents).

d. Three-Year Amendments

Rule 6a-4(b)(4) requires existing Security Futures Product Exchanges to file an amendment to Form 1-N at certain mandatory intervals. In addition to the annual amendments discussed above, a Security Futures Product Exchange shall file, as an amendment to Form 1-N, Exhibits A, B, C, and E every three years (“3-Year Amendment”).

In its most recent Paperwork Reduction Act submission for Form 1-N and Rule 6a-4, the SEC estimated that the total annual burden for filing 3-Year Amendments would be 14 hours. Each of the two Security Future Product Exchanges files one 3-Year Amendment every three years, with each filing requiring 20 hours to prepare (or 40 hours over a three-year period). Annualized, this burden totals 13.333 hours rounded up to 14 hours in the most recent Paperwork Reduction Act submission.

The proposed rule would not change the number of respondents or the frequency of response. However, the SEC estimates that filing a 3-Year Amendment to Form 1-N would require one fewer hour of clerical work from the current baseline. **Accordingly, the SEC estimates that the total annual burden for all respondents to provide triennial amendments to Form 1-N would be 12.66 hours** (19 hours/response x 2 respondents x .333 response per year).

e. Supplemental Materials

Rule 6a-4(c) requires each existing Security Futures Product Exchange to provide the SEC with copies of certain supplemental materials sent to the exchange’s members, and to file monthly reports concerning security futures products traded on the exchange.

In its most recent Paperwork Reduction Act submission for Form 1-N and Rule 6a-4, the SEC estimated that each respondent would file .5 response per year at a burden of 12 hours per response for a total of 12 hours for all respondents (12 hours per response x .5 response per year x 2 respondents).

The proposed rule would not change the number of respondents or the frequency of response. The SEC estimates that while in some instances there may be a marginal reduction in burden hours associated with submitting these materials electronically as a result of a reduction in printing requirements, these reductions are too small and uncertain to warrant adjusting the hourly burden per response estimate. **Accordingly, the SEC estimates that the total annual**

burden for all respondents to provide supplemental materials would continue to be 12 hours (12 hours per response x .5 response x 2 respondents).

Summary of Hourly Burdens

| Rule | Burden Type | Number of Respondents | Number of Annual Responses Per Respondent | Time Per Response (Hours) | Total Burden Per Burden Type (Hours) |
|-------------------------------|------------------------|------------------------------|--|----------------------------------|---|
| Rule 6a-4 (b)(1) | Periodic Amendments | 2 | 1 | 14 | 28 |
| Rule 6a-4 (b)(3) | Annual Amendments | 2 | 1 | 14 | 28 |
| Rule 6a-4 (b)(4) | 3-Year Amendments | 2 | .333 | 19 | 12.66 |
| Rule 6a-4 (c) | Supplemental Materials | 2 | 12 | 0.5 | 12 |
| Total Aggregate Burden | | | | | 81 |

13. Costs to Respondents

The SEC estimates that there would be no annual dollar cost burden to respondents.

14. Costs to Federal Government

Not Applicable. Responses submitted pursuant to Rule 6a-4 are reviewed by existing SEC staff as part of their regular duties.

15. Changes in Burden

a. Change to Hours Burden

As detailed below, the SEC estimates that the proposed rule would reduce the total aggregate annual burden for all respondents from 86 hours to 81 hours due to reductions in burdens for periodic amendments (two hour reduction), annual amendments (two hour reduction), and 3-Year Amendments (one hour reduction). The proposed rule would not change any other burdens.

The proposed rule would reduce the total aggregate annual burden for all respondents to file periodic amendments by two hours. Under the proposed rule, the SEC estimates that filing periodic amendments to Form 1-N electronically would require one fewer hour of clerical work from the current baseline (paper filing) per response with no change to the number of respondents or number of responses. Therefore, the burden would be reduced from 30 hours (15 hours per response x 1 response x 2 respondents) to 28 hours (14 hours per response x 1 response x 2 respondents).

The proposed rule would reduce the total aggregate annual burden for all respondents to file annual amendments by two hours. Under the proposed rule, the SEC estimates that filing annual amendments to Form 1-N electronically would require one fewer hour of clerical work from the current baseline (paper filing) per response with no change to the number of respondents or number of responses. Therefore, the burden would be reduced from 30 hours (15 hours per response x 1 response x 2 respondents) to 28 hours (14 hours per response x 1 response x 2 respondents).

The proposed rule would reduce the total aggregate annual burden for all respondents to file 3-Year Amendments by one hour. Under the proposed rule, the SEC estimates that filing 3-Year Amendments to Form 1-N electronically would require one fewer hour of clerical work from the current baseline (paper filing) per response. Each of the two respondents files one 3-Year Amendment every three years for a total of two filings every three years. Currently, one filing requires 20 hours; therefore, two filings every three years (one per respondent) equals a 40 hour burden every three years or 14 hours⁶ per year. The proposed rule would not change the number of respondents or the frequency of the responses. The only change would be that each filing would require 19 hours instead of 20 hours, for a total annual hourly burden of 13 hours.⁷ Therefore, the total annual burden for all respondents would be reduced from 14 hours to 13 hours.

| Information Collection | Existing Approved Hour Burden | Proposed Estimated Hour Burden | Change in Estimated Hour Burden | Reason for the Change |
|--|--------------------------------------|---------------------------------------|--|---|
| Rule 6a-4(b)(1) Periodic Amendments | 30 | 28 | decrease of 2 | change in estimate due to converting filings from paper to electronic |
| Rule 6a-4(b)(3) Annual Amendments | 30 | 28 | decrease of 2 | change in estimate due to converting filings from paper to electronic |
| Rule 6a-4(b)(4) 3-Year Amendments | 14 | 12.66 | decrease of 1.33 | change in estimate due to converting filings from paper to electronic |

⁶ 40 hours divided by 3 equals 13.333 rounded up to 14 hours.

⁷ 2 respondents x 1 filing every three years x 19 hours per filing equals 38 burden hours every three years. 38 hours divided by 3 years equals 12.67 hours per year rounded up to 13 hours.

| | | | | |
|--|----|----|------|-----------|
| Rule 6a-4(c) Supplemental Materials | 12 | 12 | same | no change |
|--|----|----|------|-----------|

b. Change to Dollar Cost Burden

Under the current approved collection for Form 1-N and Rule 6a-4, there is an annual cost burden of \$304 per respondent or \$608 total for all respondents. These costs consist of miscellaneous clerical expenses involved in submitting paper filings. The SEC estimates that the proposed rule would result in the elimination of these costs because there would no longer be any paper submissions. Therefore, the estimated new cost would be \$0.

| Information Collection | Existing Approved Cost Burden | Proposed Estimated Cost Burden | Change in Estimated Cost Burden | Reason for the Change |
|--|--------------------------------------|---------------------------------------|--|--|
| Rule 6a-4(b)(1) Periodic Amendments | \$200 | \$0 | decrease of \$200 | change in estimate due to elimination of paper submissions and associated costs of paper submissions |
| Rule 6a-4(b)(3) Annual Amendments | \$200 | \$0 | decrease of \$200 | change in estimate due to elimination of paper submissions and associated costs of paper submissions |
| Rule 6a-4(b)(4) 3-Year Amendments | \$88 | \$0 | decrease of \$88 | change in estimate due to elimination of paper submissions and associated costs of paper submissions |
| Rule 6a-4(c) Supplemental Materials | \$120 | \$0 | decrease of \$120 | change in estimate due to elimination of paper submissions and associated costs of paper submissions |

16. Information Collection Planned for Statistical Purposes

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

17. Approval to Omit OMB Expiration Date

The SEC 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.