

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 17a-11 – Notification Provisions for Brokers and Dealers
OMB Control No. 3235-0085

A. JUSTIFICATION

1. Necessity of Information Collection

In response to an operational crisis in the securities industry between 1967 and 1970, the Securities and Exchange Commission (“Commission”) adopted Rule 17a-11 (17 CFR 240.17a-11) under the Securities Exchange Act of 1934 (“Exchange Act”) on July 11, 1971. Rule 17a-11 applies to a broker-dealer, including an over-the-counter (“OTC”) derivatives dealer; a broker-dealer, other than an OTC derivatives dealer, that is also a security-based swap dealer (“SBSD”); and a broker-dealer, including an OTC derivatives dealer, that is also a major-security-based swap participant (“MSBSP”). The Rule requires broker-dealers that are experiencing financial or operational difficulties to provide notice to the Commission, the broker-dealer’s designated examining authority (“DEA”) and the Commodity Futures Trading Commission (“CFTC”) if the broker-dealer is registered with the CFTC as a futures commission merchant. Rule 17a-11 is an integral part of the Commission’s financial responsibility program, which enables the Commission, a broker-dealer’s DEA, and the CFTC to increase surveillance of a broker-dealer experiencing difficulties and to obtain any additional information necessary to gauge the broker-dealer’s financial or operational ~~and~~

Paragraph (a)(1) of Rule 17a-11 requires broker-dealers whose net capital declines below the minimum amount required under Exchange Act Rule 15c3-1 to give notice that same day. In addition, paragraph (a)(2) of Rule 17a-11 requires an OTC derivatives dealer or a broker-dealer that computes net capital under Appendix E to Rule 15c3-1 (“ANC broker-dealer”) to provide notice if its tentative net capital declines below the minimum amount required per Rule 15c3-1.

Paragraph (b) of Rule 17a-11 requires broker-dealers to give notice within 24 hours (1) if an aggregate indebtedness computation shows that aggregate indebtedness is greater than 1,200% of its net capital; (2) if a net capital computation made by an ANC broker-dealer shows that its net capital is less than 5% of aggregate debit items computed in accordance with Exhibit A to Rule 15c3-3; (3) if a net capital computation made by a broker-dealer shows that its total net capital is less than 120% of its required minimum net capital, or a tentative net capital computation made by an OTC derivatives dealer shows that its total tentative net capital is less than 120% of its required minimum tentative net capital; (4) the occurrence of the fourth and each subsequent back testing exception by an ANC broker-dealer; (5) if certain computations by broker-dealers engaged in securities lending or repurchase activities show that the total money payable against all securities loaned, subject to a reverse repurchase agreement or the contract value of all securities borrowed or subject to a repurchase agreement, exceeds 2,500% of tentative net capital. Alternatively, the firm may report monthly their securities lending and repurchase activities to their DEA in a form acceptable to their DEA.

Paragraph (c) of Rule 17a-11 requires a broker-dealer to provide notice that same day if it

fails to comply with the books and records requirements of Exchange Act Rule 17a-3 and to transmit a report within 48 hours of the notice stating what it has done or is doing to correct the situation.

Paragraph (d) of Rule 17a-11 requires the broker-dealer to give notice within 24 hours when it discovers or is notified by an independent public accountant of the existence of a material inadequacy or material weakness and to transmit a report within 48 hours stating what the firm has done or is doing to correct the situation.

Paragraph (f) of Rule 17a-11 requires broker-dealers engaged in security-based swap activities to immediately notify the Commission if they fail to make a deposit required under paragraph (p) of Rule 15c3-3.

Paragraph (g) of Rule 17a-11 requires every national securities exchange (“NSE”) or national securities association (“NSA”) to immediately notify the Commission if it learns that a broker-dealer failed to provide a notice required under Rule 17a-11.

The Commission promulgated Rule 17a-11 under Sections 15(c)(3), and 17(a), and 23(a) of the Exchange Act (15 U.S.C. 78o(c)(3) et seq., 15 U.S.C. 78q(a) et seq.), and (15 U.S.C. 78w(a) et seq.).

2. Purpose and Use of Information Collection

The information obtained under Rule 17a-11 is used to monitor the financial and operational condition of a broker-dealer, including a broker-dealer SBSB and a broker-dealer MSBSP, by the Commission staff, by the broker-dealer’s DEA, and, if applicable, by the CFTC. This information alerts the Commission, the DEA, and the CFTC of the possible need to increase surveillance of the broker-dealer’s financial and operational condition and to assist the broker-dealer to comply with the Commission’s rules. No similar information is already available to use or modify for purposes of complying with Rule 17a-11 because the disclosures required by the rule are unobtainable until the early warning mechanisms are triggered. Only the most up-to-date information will help the Commission, DEAs, and the CFTC to monitor broker-dealers, including broker-dealer SBSBs and broker-dealer MSBSPs, experiencing financial or operational difficulties.

The monthly report related to the broker-dealer’s securities borrowed and loaned or securities repurchase/reverse repurchase activity may be filed by a broker-dealer in lieu of the filing of the required notice under Rule 17a-11(b)(5). The monthly report is designed to enhance the monitoring of these securities activities by securities regulators.

3. Consideration Given to Information Technology

Broker-dealers required to provide notice under Rule 17a-11 may give or transmit ~~such~~ notice by telegraphic notice or facsimile transmission. Certain DEAs have developed systems ~~that~~ enable them to receive these notices electronically.

4. Duplication

Duplication of information is not a concern because the reporting requirements are only applicable to those broker-dealers triggering the notice requirements of Rule 17a-11.

5. Effect on Small Entities

To the extent that some broker-dealers that are required to give notice under the Rule are small entities, the Rule will impact these entities. However, information is collected from small broker-dealers only when they are required to provide notice under the Rule.

6. Consequences of Not Conducting Collection

Only broker-dealers, including broker-dealer SBSs and broker-dealer MSBSs, having financial or operational problems must give notice under the Rule. Less frequent notification would result in the Commission, self-regulatory organizations and the CFTC not receiving notification of broker-dealers' financial or operational problems.

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

9. Payment or Gift

No gifts or payments are provided to respondents.

10. Confidentiality

The Commission will generally not publish or make available to any person notices or reports received pursuant to Rule 17a-11. The Commission believes that information obtained under Rule 17a-11 relates to a condition report prepared for the use of the Commission, other federal governmental authorities, and securities industry SROs responsible for the regulation or supervision of financial institutions.

11. Sensitive Questions

The information collection has basic elements of Personally Identifiable Information ("PII") which is stored by the Commission on the Division of Trading and Market's SharePoint site, and which is covered by the existing 2012 Collaboration SharePoint ("CSP") PIA pursuant to Section 208 of the E-Government Act of 2002. As information will not be retrieved by a

personal identifier, the system does not constitute a system of records and a SORN is not required.

12. Information Collection Burden

Rule 17a-11(a)-(e) Notices to Commission: In 2022, the Commission received 86 notices from broker-dealers under paragraphs (a) through (e) of Rule 17a-11 (except for notices under paragraph (b)(5), which is addressed separately below), which includes OTC derivatives dealers and ANC broker-dealers. The Commission estimates that it will take approximately one hour to prepare and transmit each notice, resulting in an industry-wide **annual reporting burden of approximately 86 hours.**¹

Paragraph (b)(5) of Rule 17a-11—Securities Lending/Borrowing Report to DEA: The Commission estimates that six broker-dealers will submit the monthly stock loan/borrow report to the DEA each year. The Commission estimates each firm will spend, on ~~avg~~ approximately one hour per month (or twelve hours per year) to prepare and transmit the report to its DEA, resulting in an industry-wide **annual reporting burden of approximately 72 hours.**²

Rule 17a-11(f) – Notice of Failure to Deposit in Rule 15c3-3(p) Account: This requirement to was added as part of amendments to Rule 17a-11 related to security-based swap activities adopted in September 2019.³ The Commission estimates that 100 notices will be filed each year under paragraph (f) of Rule 17a-11. The Commission estimates that each required notice will take, on average, approximately one hour to prepare and transmit, resulting in an estimated industry-wide **annual reporting burden of approximately 100 hours.**⁴

Rule 17a-11(g) – Notices Filed by National Securities Exchanges and Associations with respect to paragraphs (a) through (e) of Rule 17a-11: A broker-dealer’s national securities exchange (“NSE”) or national securities association (“NSA”) must notify the Commission if it learns that the broker-dealer failed to provide a notice required under any paragraph of Rule 17a-11. There are 24 NSEs and NSAs.⁵ The Commission typically receives between six and eleven Rule 17a-11 notices with respect to paragraph (a) through (e) of Rule 17a-11 from NSEs and NSAs each year. Therefore, the Commission estimates that it will receive eleven notices from them each year notifying it that a member broker-dealer has failed to send the Commission a notice or transmit a report required under paragraphs (a) through (e) of Rule 17a-11. The Commission estimates it will take approximately one hour to prepare and transmit each notice, resulting in an industry-wide **annual reporting burden of approximately eleven**

¹ 86 notices x 1 hour per notice = 86 hours.

² 6 broker-dealers x 12 hours per year = 72 hours.

³ *See Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Final Rule*, Exchange Act Release No. 87005 (Sep. 19, 2019, 84 FR 68550 (Dec. 16, 2019)).

⁴ 100 notices x 1 hour per notice = 100 hours.

⁵ See SEC, National Securities Exchanges, available at <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

hours.⁶

Rule 17a-11(g) – Notices Filed by National Securities Exchanges and Associations with respect to paragraph (f) of Rule 17a-11: A broker-dealer’s NSE or NSA must notify the Commission if it learns that a member broker-dealer failed to provide a notice required under paragraph (f) of Rule 17a-11. The Commission estimates that each required notice will take one hour to prepare and file. Based on Commission experience with the number of notices currently filed by NSEs and NSAs, the Commission estimates that five notices will be filed by NSEs and NSAs notifying the Commission that a member broker-dealer has failed to send the Commission a notice required under paragraph (f) of Rule 17a-11, resulting in an estimated industry-wide annual reporting burden of approximately five hours.⁷

The annual burden is summarized in the table below.

Summary of Hour Burdens					
Name of Information Collection	Type of Burden	Number of Entities Impacted	Annual Responses per Entity	Ongoing Burden per Entity per Response	Total Industry Burden
Rule 17a-11(a)-(e) – Notification Provisions for Broker and Dealers	Reporting	86	1	1	86
Rule 17a-11(b)(5) – Monthly Stock Loan/Borrow Reports	Reporting	6	12	1	72
Rule 17a-11(f) – Notice of Failure to Deposit in Rule 15c3-3(p) Account	Reporting	100	1	1	100
Rule 17a-11(g) – Notices Filed by National Securities Exchanges and Associations with respect to paragraphs (a)-(e) of Rule 17a-11	Reporting	11	1	1	11
Rule 17a-11(g) – Notices Filed by National Securities Exchanges and Associations with respect to paragraph (f) of Rule 17a-11	Reporting	5	1	1	5
TOTAL HOUR BURDEN FOR ALL RESPONDENTS					274

13. Costs to Respondents

As the notices are filed electronically, Rule 17a-11 does not impose any costs other than labor costs associated with the burden described in Item 12 above.

14. Costs to Federal Government

None. Review of notices is done by existing Commission staff as part of their regular duties.

⁶ 11 notices x 1 hour per notice = 11 hours.

⁷ 5 notices x 1 hour per notice = 5 hours.

15. Change in Burden

The estimated total hour burden decreased from 531 hours per year to 274 hours per year because the Commission staff's estimate of the number of entities impacted by the Rule 17a-11(a)-(e) notification provisions for broker-dealers decreased from 343 to 86. The change in burden is summarized in the table below.

Name of Information Collection	Current Annual Industry Burden	Revised Annual Industry Burden	Change in Burden	Reason for Change
Rule 17a-11(a)-(e) –Notification Provisions for Broker-Dealers	343	86	(257)	Change in staff estimate of entities impacted.
Rule 17a-11(b)(5)-Monthly Stock Loan/Borrow Reports	72	72	0	n/a
Rule 17a-11(f) – Notice of Failure to Deposit in Rule 15c3-3(p) Account	100	100	0	n/a
Rule 17a-11(g) –Notices Filed by National Securities Exchanges and Associations with respect to paragraphs (a)-(e) of Rule 17a-11	11	11	0	n/a
Rule 17a-11(g) –Notices Filed by National Securities Exchanges and Associations with respect to paragraph (f) of Rule 17a-11	5	5	0	n/a
TOTAL CHANGE IN BURDEN			(257)	

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 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.