

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 17ad-6 and proposed amendments to 17ad-7¹

OMB Control No. 3235-0291
Proposed Partial Revision

A. JUSTIFICATION

1. Necessity of Information Collection

As a result of the paperwork crisis that occurred in the late 1960s, during which the number of securities transactions exceeded the securities industry's capacity to process those transactions, Congress enacted the Securities Acts Amendments of 1975.¹ In order to establish a national system for the prompt and accurate clearance and settlement of securities transactions, Congress provided for a scheme of regulation with respect to the business of being a transfer agent. Those amendments to the Securities Exchange Act of 1934 (“Exchange Act”) require transfer agents to meet minimum standards, as established by the Commission, in furtherance of the purposes of the Exchange Act and generally, to protect investors.

Transfer agents play an integral role in the national system for the clearance and settlement of securities transactions. Transfer agents cancel certificates presented for transfer, issue new certificates to the transferee and record the change of record ownership of securities on the issuer’s securityholder records. They also prepare, maintain and certify securityholder records, disburse dividend and interest payments and mail security-owner communications such as proxy material and annual reports to shareholders.

To the extent transfer agents fail to perform their activities promptly, accurately and safely, the entire clearance, settlement and transfer process suffers. Moreover, substandard performance by transfer agents can affect the accuracy of an issuer's securityholder records and interrupt the channels of communication between issuers and securityholders. Thus, substandard performance by transfer agents can adversely affect issuers, broker-dealers, banks, other financial intermediaries, the investing public and the securities markets.

Based on experience in the operation of the transfer agent regulatory program, the Commission adopted Rules 17Ad-6 and 17Ad-7, which require registered transfer agents to make and keep current certain records such as: (1) specific operational data regarding the time taken to perform transfer agent activities (to ensure compliance with the minimum performance standards in Rule 17Ad-2 (17 CFR 240.17Ad-2)); (2) written inquiries and requests by shareholders and broker-dealers and response time thereto; (3) resolutions, contracts or other supporting documents

¹ Rel. No. 34-9142 (Cybersecurity Risk Management Rule for Broker-Dealers, Clearing Agencies, Major Security—Based Swap Participants, the Municipal Securities Rulemaking Board, National Securities Associations, National Securities Exchanges, Security-Based Swap Data Repositories, Security-Based Swap Dealers, and Transfer Agents, March 15, 2023)

¹ Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

concerning the appointment or termination of the transfer agent; (4) stop orders or notices of adverse claims to the securities; and (5) all canceled registered securities certificates.

As proposed, amended 17Ad-7 would change the collection of information to include additional records to be preserved.. Specifically, registered transfer agents will be required to retain for three years written documentation of risk assessments, occurrence of a cybersecurity incident, written report of annual review, copy of notices transmitted to the Commission and any ARA and a copy of any Part II of Form SCIR filed with the Commission. In addition, they would be required to maintain written policies and procedures until three years after the termination of the use of the policies and procedures.

2. Purpose and Use of Information Collection

Rules 17Ad-6 and 17Ad-7 were designed to accomplish two purposes. First, the recordkeeping requirements ensure that all registered transfer agents are maintaining the records necessary to monitor and keep adequate control over their own performance. Second, the recordkeeping requirements allow the examination of registered transfer agents on an historical basis for compliance with applicable rules. As proposed, the amendments are consistent with these purposes.

3. Consideration Given to Information Technology

Rule 17Ad-6 and 17Ad-7 as proposed to be amended does not state how information must be recorded but only states that certain information needed to determine a transfer agent's compliance with the applicable rules must be retained. Therefore, improved information technology does not affect the transfer agent's recordkeeping requirements.

4. Duplication

When Rules 17Ad-6 and 17Ad-7 were promulgated, the Commission consulted with other appropriate regulatory agencies ("ARA") (i.e., the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency) to prevent multiple recordkeeping requirements among the various ARAs. Regulation H, Section 208.31 (12 CFR 208.31) of the Board of Governors of the Federal Reserve System imposes Rules 17Ad-6 and 17Ad-7, among other rules, on state member bank transfer agents. Office of the Comptroller of the Currency rule §9.20 (12 CFR 9.20) imposes Rules 17Ad-6 and 17Ad-7, among other rules, upon the domestic activities of registered national bank transfer agents. The Commission consulted with the appropriate regulators in connection with the proposed amendments.

5. Effect on Small Entities

Small transfer agents are exempt under Rule 17Ad-4(b) (17 CFR 240.17Ad-4(b)) from many of the recordkeeping requirements of Rules 17Ad-6 and 17Ad-7. The recordkeeping requirements imposed on these small entities are the minimal recordkeeping requirements needed to

adequately fulfill their most basic duty to transfer securities and do not create any significant burden.

6. Consequences of Not Conducting Collection

The records that must be made or retained under Rules 17Ad-6 and 17Ad-7 require regular updating because of the relationship between a transfer agent's function and the securities market (i.e., the on-going, daily transfer of record ownership of securities resulting from continuous trading activity in the market). Preparation and retention of these records are essential to establish record ownership of securities and to operate successfully as a registered transfer agent.

Lesser requirements under the Rules would adversely affect the Commission's ability to examine transfer agent compliance with applicable Commission rules. This would allow transfer agents experiencing operational difficulty to continue operating in such a manner, with a potential for further operational deterioration. Such a situation would greatly increase risks to public investors and to the national system for clearance and settlement of securities transactions.

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

The records retention periods required by Rule 17ad-7 vary depending on the type of record. For certain types of records, the retention period may exceed three years.

Rule 17ad-7(c) provides that the records required by Rules 17Ad-6(a) (8), (9) and (10) and (b) shall be maintained for one year after termination of the transfer agency. Thus, if the transfer agent relationship with the issuer continued for longer than a two year period, these records The records retention periods required by Rule 17Ad-7 vary depending on the type of record. For certain types of records, the retention period may exceed three years.

Rule 17Ad-7(c) provides that the records required by Rules 17Ad-6(a) (8), (9) and (10) and (b) shall be maintained for one year after termination of the transfer agency. Thus, if the transfer agent relationship with the issuer continued for longer than a two year period, these records would be required to be retained for more than three years. Also, Rule 17Ad-7(e) provides that records required under Rule 17f-2(d) must be maintained until at least three years after the termination of employment of those persons required by Rule 17f-2 to be fingerprinted. Therefore, these records, in nearly all cases, would be required to be retained for more than three years. In addition, Rule 17Ad-7(d) provides that the records required by § 240.17Ad-6(c), which relate to cancelled security certificates and accompanying documentation, shall be maintained for a period of not less than six years.

Other than the above-referenced aspects of Rule 17Ad-7, there are no special circumstances and this collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultations Outside the Agency

Electronic Comments:

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/submitcomments.htm>); or
- Send an email to rule-comments@sec.gov. Please include File Number S7-06-23 on the subject line.

Paper Comments:

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-06-23. The file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission’s website (<https://www.sec.gov/rules/proposed.shtml>). Comments are also available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission’s Public Reference Room. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission’s website. To ensure direct electronic receipt of such notifications, sign up through the “Stay Connected” option at www.sec.gov to receive notifications by email. Comments may be submitted by any of the following methods.

9. Payment or Gift

There were no payments or gifts to respondents.

10. Confidentiality

The information required by Rules 17Ad-6 and 17ad-7 is maintained in the possession of the registered transfer agents or their third party agents, outside service bureaus or other recordkeeping services. Under Section 17(b) of the Exchange Act, the Commission and the ARA for such registered transfer agent have access to the records for inspection and examination purposes and, in appropriate circumstances, for investigations. Rule 17ad-7(f)(5)(ii) requires, with respect to electronic storage media or micrographic media, that the independent third party escrow agent required to be used by such rule file an undertaking with the Commission and the ARA for such registered transfer agent stating that the third party will furnish upon request to the Commission the physical and logical format, the field format, and source code for such media and information required to access such media. Rule 17ad-7(f)(6)(i) requires, with respect to electronic storage media or micrographic media, that a third party agent used by a registered transfer agent file an undertaking with the Commission and the ARA for such registered transfer agent stating that the third party will permit examination of the records by the Commission. In addition, Rule 17ad-7(g) requires a registered transfer agent using an outside service bureau or other recordkeeping service to obtain an agreement from the outside service bureau or other

recordkeeping service that the records are subject to examination by the Commission and the ARA for such registered transfer agent and that the records will be furnished upon demand in hard copy to the Commission and the ARA for such registered transfer agent.

11. Sensitive Questions

No information collected will be shared with or stored by the SEC outside of responses to Division of Examinations document requests; the SEC would not see or have access to the information collected by transfer agents otherwise. The agency has determined that neither a Privacy Impact Assessment nor a System of Records Notice is required in connection with the collection of information.

12. Information Collection Burden

The time required to administer the retention of the necessary information varies from each transfer agent depending on the size and nature of the transfer agent’s operation. In addition, some records are made on a daily basis, while other records must be made only once. The Commission estimates that, on average, each of the approximately 353 registered transfer agents spends approximately 500 hours per year storing and retaining these records. The requirements in the proposing release would add a new collection of information to 17ad-7 with a burden of 6 hours per respondent.

The aggregate annual burden on the 353 registered transfer agents is thus approximately 178,618 hours per year.

Rule	Burden Type	Number of Respondents	Number of Annual Responses Per Respondent	Time Per Response (Hours)	Total Burden Per Burden Type (Hours)
Rules 17Ad-6 and 17ad-7	Record Keeping	353	1	500	176,500
Proposed amendments	Record Keeping	353	1	6	2,100
Total Aggregate Burden					178,618

While not a cost burden under Item 13, with respect to the estimated 506 hours per year per transfer agent to comply with Rules 17Ad-6 and 17ad-7, the Commission staff estimates that compliance staff work at registered transfer agents results in an internal cost of compliance, at an estimated hourly wage of \$73.5, or \$37,191 per year per transfer agent (500 hours x \$73.5 per hour = \$37,191 per year).² Therefore, the aggregate annual internal cost of compliance for the

² The Commission’s estimates of the relevant wage rates are based on salary information for the securities industry compiled by Securities Industry and Financial Markets Association’s Office Salaries in the Securities Industry 2013, as modified by Commission staff for 2022 (“SIFMA Wage Report”). The estimated figures are modified by firm size, employee benefits, overhead, and adjusted to account for the effects of inflation

approximately 353 registered transfer agents is approximately \$56,303,500 ($\$37,191 \times 353 = \$13,128,428$).

13. Costs to Respondents

The collections of information required by Rules 17Ad-6 and 17ad-7 do not impose any cost burdens, as defined by the Paperwork Reduction Act, on transfer agents.

14. Costs to Federal Government

Not applicable. All Commission review and processing would be conducted by existing Commission staff so there are no additional Federal government costs involved.

15. Changes in Burden

As a result of a decrease in the number of transfer agents, the total annual hourly burden decreased from 179,500 hours to 178,618 hours due to the decrease in the number of registered transfer agents. At the same time, because of a new information collection, the number of hours per transfer agent increased from 500 to 506 hours.

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.