

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 17a-4
OMB Control No. 3235-0279
Partial Revision

A. JUSTIFICATION

1. Information Collection Necessity

All brokers and dealers in the ordinary course of their businesses need to maintain certain books and records reflecting, among other things, income and expenses, assets and liabilities, daily trading activity, and the status of customer and firm accounts. These books and records are, for the most part, standard and would be kept by any prudent individual engaging in a securities business.

The Commission is statutorily authorized by Sections 17(a)¹ and 23(a)² of the Securities Exchange Act of 1934 (“Exchange Act”) to promulgate rules and regulations regarding the maintenance and preservation of books and records of exchange members, brokers, and dealers (“broker-dealers”). Section 17(a)(1) provides in pertinent part:

“[all members of a national securities exchange and registered brokers and dealers] shall make and keep for prescribed periods such records...as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the [Exchange Act].”

To standardize recordkeeping practices throughout the industry, the Commission, in 1940, adopted Rules 17a-3 and 17a-4 (one of the “Books and Records Rules”),³ which codified and specified minimum standards with respect to business records that broker-dealers must create and maintain. Rule 17a-3 requires exchange members, brokers and dealers to make and keep current certain records relating to a broker’s or dealer’s financial condition and operations. For example, broker-dealers are required to maintain, among other things, blotters containing an itemized daily record of all purchases and sales of securities; ledgers reflecting all assets and liabilities, income and expense, and capital accounts; a securities record or ledger reflecting separately for each security as of the clearance dates all “long” or “short” positions; a memorandum of each brokerage order; a memorandum of each purchase or sale of a security for the account of the broker-dealer; copies of confirmations; certain account holder information, as well as information regarding employees; and customer complaints, among other records.

Rule 17a-4, which is the subject of this Supporting Statement, requires broker-dealers to preserve, for prescribed periods of time, the records required to be created under Rule 17a-3 and

¹ 15 U.S.C. 78q(a).

² 15 U.S.C. 78w(a).

³ 17 CFR 240.17a-3 and 17 CFR 240.17a-4.

certain other Commission rules. In addition, Rule 17a-4 requires broker-dealers to preserve other records that may be created or received by the broker-dealer in the ordinary course of its business for prescribed periods of time.

On July 21, 2010, President Obama signed the Dodd-Frank Act into law.⁴ Title VII of the Dodd-Frank Act (“Title VII”) established a new regulatory framework for the over-the-counter derivatives markets.⁵ Title VII was enacted, among other reasons, to provide for the registration and regulation of security-based swap dealers (“SBSDs”) and major security-based swap participants (“MSBSPs”), and create recordkeeping and reporting regimes for such entities. Section 764 of the Dodd-Frank Act added Section 15F to the Exchange Act, which directs the Commission to adopt rules governing reporting and recordkeeping for SBSDs and MSBSPs.⁶ Additionally, Section 17(a)(1) of the Securities Exchange Act of 1934 provides the Commission with authority to adopt rules requiring broker-dealers – which would include broker-dealer security-based swap dealers (“broker-dealer SBSDs”) and broker-dealer major security-based swap participants (“broker-dealer MSBSPs”) – to make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.⁷

Proposed Partial Revision to Collection of Information

In December 2022, the Commission proposed Regulation Best Execution that would establish through a Commission rule a best execution standard for broker-dealers and require broker-dealers to establish, maintain, and enforce written policies and procedures reasonably designed to comply with that best execution standard.⁸ In connection with proposed Regulation Best Execution, the Commission is proposing new recordkeeping requirements for broker-dealers. As noted above, Section 17(a)(1) of the Exchange Act requires registered broker-dealers to keep for prescribed periods such records as the Commission prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.⁹ Rule 17a-4 under the Exchange Act specifies how long broker-dealers must preserve required records and other documents.¹⁰

Specifically, Proposed Regulation Best Execution would require broker-dealers to make the following records:

⁴ See Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. 111–203, 124 Stat. 1376 (2010).

⁵ Pursuant to section 701 of the Dodd-Frank Act, Title VII may be cited as the “Wall Street Transparency and Accountability Act of 2010.” See Pub. L. 111–203, 701.

⁶ See 15 U.S.C. 78o-10(f)(2).

⁷ See 15 U.S.C. 78q(a)(1).

⁸ See Regulation Best Execution, Exchange Act Release No. 96496 (Dec. 14, 2022), 88 FR 5440 (Jan. 27, 2023) (“Regulation Best Execution Release”).

⁹ 15 U.S.C. 78q(a)(1).

¹⁰ 17 CFR 240.17a-4.

- Policies and procedures under proposed Rules 1101(a), (b), and (d) and Rule 1102;
- Documentation of compliance with the best execution standard for conflicted transactions under proposed Rule 1101(b);
- Documentation of payment for order flow arrangements under proposed Rule 1101(b);
- Documentation of the results of the regular review of execution quality under proposed Rule 1101(c);
- Documentation of the results of the regular review of execution quality by introducing brokers under proposed Rule 1101(d);
- Documentation of the annual review under proposed Rule 1102; and
- Annual report under proposed Rule 1102.

Current Rule 17a-4(e)(7) under the Exchange Act would apply to the policies and procedures required by proposed Regulation Best Execution.¹¹ The Commission proposes to amend Rule 17a-4 to add new paragraph (b)(17) to require broker-dealers to preserve all other records made pursuant to proposed Rules 1101 and 1102 for a period of not less than three years, the first two years in a readily accessible place.

2. Information Collection Purpose and Use

The Commission preliminarily believes that the preservation of records made pursuant to proposed Regulation Best Execution for this time period would assist broker-dealers in ensuring that they continue to maintain robust best execution practices for an appropriate amount of time. In addition, the preservation and availability of records that support and document broker-dealers' compliance with proposed Regulation Best Execution would also assist the Commission and SROs in assessing the broker-dealer's efforts to comply with proposed Regulation Best Execution.

3. Consideration Given to Information Technology

Rule 17a-4 specifically allows brokers and dealers, including broker-dealer SBSDs, and broker-dealer MSBSPs, to use electronic storage media to comply with the record-keeping requirements under the Securities and Exchange Act of 1934. In fact, because it simply sets minimum standards for the electronic storage media employed, Rule 17a-4 does not limit broker-dealers, including broker-dealer SBSDs, and broker-dealer MSBSPs, to using forms of electronic storage which may become obsolete as new technology is developed. The Commission believes that improvements in telecommunications and data processing technology may reduce any burdens that result from Rule 17a-4. The audit trail alternative in the amended rule is designed to update the requirements in Rule 17a-4 to account for technological advances in recordkeeping technologies that have occurred over the past two decades.

¹¹ Rule 17a-4(e)(7) requires broker-dealers to maintain and preserve in an easily accessible place compliance, supervisory, and procedures manuals (and any updates, modifications, and revisions thereto) describing the policies and practices of the broker-dealer with respect to compliance with applicable laws and rules, and supervision of the activities of associated persons until three years after the termination of the use of the manual. 17 CFR 240.17a-4(e)(7).

4. Duplication

There is no duplication.

5. Effects on Small Entities

Because number and complexity of records required to be preserved by Rule 17a-4 vary proportionately with the volume and complexity of the broker-dealer's business, broker-dealers, including broker-dealer SBSs, and broker-dealer MSBSPs, may choose which media (hard-copy, microfiche, electronic storage, cloud-based service providers etc.) is most appropriate given their size and the type of business they do. The books and records required under Rule 17a-4 are normally retained by small broker-dealers. Additionally, with respect to the amendments associated with the rulemaking implementing the recordkeeping requirements mandated under the Dodd-Frank Act with respect to broker-dealer SBSs and broker-dealer MSBSPs, and to account for the security-based swap and swap activities of stand-alone broker-dealers, the Commission does not anticipate that many small broker-dealers will be affected by the SBS Recordkeeping Release's amendments to Rule 17a-4 as most of these firms generally do not hold positions in security-based swaps.

6. Consequences of Not Conducting Collection

Rule 17a-4 is a record preservation rule. Without Rule 17a-4, it would be impossible for the Commission to determine whether a broker-dealer, including a broker-dealer SBS, or a broker-dealer MSBSP, that chose not to preserve records was in compliance with the Commission's antifraud and anti-manipulation rules, financial responsibility program, and other Commission, SRO, and State laws, rules, and regulations. Such a situation would not be in the public interest and would be detrimental to investors and the financial community as a whole.

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

Certain provisions of Rule 17a-4 require respondents to retain records for more than three years. Specifically, Rule 17a-4(a) requires broker-dealers to preserve for a period of not less than six years:

1. Purchase and sales blotters, securities and cash receipts, and disbursements blotters;
2. Ledgers of a broker-dealer's assets, liabilities, income and expense, and capital accounts;
3. Customer account ledgers;
4. Securities position reports;
5. Lists of office employees able to explain records to examiners; and
6. A record of persons responsible for establishing policies and procedures designed to ensure that the broker-dealer is compliant with applicable rules and regulations.

After the closing of any customer's account, broker-dealers must preserve for at least six years any account cards or records which relate to the terms and conditions of opening and maintaining the account. Broker-dealers are required to maintain and preserve in an easily accessible place:

1. Employment records of associated persons until at least three years after the employment has terminated;
2. Processed fingerprint cards and other related information until at least three years after the termination of employment or association;
3. All records required pursuant to paragraph (a)(15) of Rule 17a-3 for the life of the enterprise;
4. All account record information required pursuant to Rule 17a-3(a)(17) and Rule 17a-3(a)(35) until at least six years after the earlier of the date the account was closed or the date on which the information was replaced or updated;
5. All records required pursuant to Rule 17a-3(a)(24) and a copy of each Form CRS, until at least six years after such record or Form CRS is created; and
6. Each compliance, supervisory, and procedures manual, including any updates, modifications, and revisions to the manual, describing the policies and practices of the member, broker, or dealer with respect to compliance with applicable laws and rules, and supervision of the activities of each natural person associated with the member, broker, or dealer until three years after the termination of the use of the manual.

In addition, Rule 17a-4(d) requires that a broker-dealer maintain specified organizational documents for the life of the enterprise and any successor enterprise.

These extended retention periods are necessary with respect to the records itemized above in order to provide regulators with sufficient time to conduct comprehensive inspections and investigations. Due to budget constraints, regulators only examine broker-dealers and office locations periodically. Further, certain of these documents do not become obsolete (*e.g.*, organizational documents).

8. Consultations Outside the Agency

The Commission requested comment on the partial revision to the collection of information requirements when proposing Regulation Best Execution.¹² The Commission 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.

9. Payment or Gift

The Commission did not provide any payment or gift to respondents.

10. Confidentiality

The records required to be maintained by Rule 17a-4 are available only to the examination staffs of the Commission, State regulatory authorities, and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”) and the Commission’s rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission generally does not publish or make

¹² See Regulation Best Execution Release.

available information contained in reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

11. Sensitive Questions

Rule 17a-4 requires that broker-dealers maintain records as prescribed by Commission rules; however, this information collection does not collect personally identifiable information (“PII”). No information of a sensitive nature, including social security numbers, will be required under this collection of information. The agency has determined that a system of records notice (“SORN”) and privacy impact assessment (“PIA”) are not required in connection with the collection of information.

12. Information Collection Burden

Rule 17a-4 establishes the records that must be preserved by all broker-dealers, as well as records that must be preserved only by certain broker-dealers. All of these burdens are recordkeeping burdens.

Currently Approved Burdens

This section summarizes the burdens that have been reviewed and approved as of the most recent extension.¹³ These burdens are not changing at this time. The Commission’s proposed Regulation Best Execution would add new collections of information with corresponding hour burdens. These are discussed at the end of this Item 12.

Records Preserved by All Broker-Dealers

The Commission estimates that, on average, each broker-dealer spends 254 hours each year to ensure that it preserves the records Rule 17a-4 requires all broker-dealers to preserve. As of December 31, 2018, there were 3,764 broker-dealers registered with the Commission. Therefore, the Commission estimates that all brokers will spend a combined total of **891,032 hours each year** ((3,508 broker-dealers x 254 hours) to comply with the Rule 17a-4 requirements applicable to all broker-dealers.

Rule 17a-4(b)(11)

Paragraph (b)(11) of Rule 17a-4 requires any broker-dealer that sponsors an internal broker-dealer system to maintain certain records relating to such system for at least three years, the first two years in an easily accessible place.¹⁴ The Commission estimates that paragraph (b)(11) of Rule 17a-

¹³ See https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201910-3235-004.

¹⁴ An internal broker-dealer system is any facility that provides a mechanism for collecting, receiving, disseminating, or displaying system orders and facilitating agreement to the basic terms of a purchase or sale of a security between a customer and the sponsor, but excludes a national securities exchange, an exchange exempt from registration based on limited volume, and an alternative trading system. See 17 C.F.R. 240.17a-3(a)(16)(ii)(A). Because an internal broker-dealer system is not included in the definition of an exchange, it is regulated under the broker-dealer regulatory scheme.

4 imposes an annual burden of 3 hours per year to maintain the requisite records. The Commission estimates that there are approximately 200 internal broker-dealer systems,¹⁵ resulting in **an annual recordkeeping burden of 600 hours.**¹⁶

Rule 17a-4(e)(5) and Rule 17a-4(e)(10)

In June 2019, the Commission amended Rule 17a-4 by revising paragraph (e)(5) and by adding new paragraph (e)(10). These revisions to the collection of information were approved by OMB on October 3, 2019. Because these revisions were approved so recently, we do not have any changes to the estimated burdens.

Based on data obtained from Form BR, the Commission estimates that approximately 73.5% of the 3,764 broker-dealers registered with the Commission as of December 31, 2018, or 2,766 broker-dealers, have retail customers and therefore are subject to the requirements of Rule 17a-4 (e)(5) and Rule 17a-4(e)(10).¹⁷

Rule 17a-4(e)(5) requires broker-dealers to retain all records of the information collected from or provided to each retail customer for at least six years after the earlier of the date the account was closed or the date on which the information was last replaced or updated.¹⁸ Rule 17a-4(e)(10) requires broker-dealers subject to Form CRS to maintain each record made pursuant to Rule 17a-3(a)(24) for at least six years.

Based on the assumption that broker-dealers will rely on existing infrastructures to satisfy the recordkeeping obligations of Rule 17a-4(e)(5), the Commission estimates the one-time initial burden for broker-dealers to add new documents or modify existing documents to the broker-dealer's existing retention system is 1,639 hours per broker-dealer or **4,225,342 burden hours for all broker-dealers**¹⁹ (put another way, each broker-dealer incurs the burden for each

¹⁵ The Commission believes that most over-the-counter (“OTC”) market makers maintain an internal broker-dealer system. In 2018, the Commission estimated that there are approximately 200 OTC market makers. *See Disclosure of Order Handling Information*, Exchange Act Release No. 84528 (Nov. 2, 2018), 83 FR 58338 (Nov. 19, 2018).

¹⁶ 3 hours x 200 internal broker-dealer systems = 600 hours.

¹⁷ On June 5, 2019, the Commission adopted Rule 15l-1 under the Exchange Act establishing a standard of conduct for broker-dealers and natural persons who are associated persons of a broker-dealer when making a recommendation of any securities transaction or investment strategy involving securities to a retail customer (“Regulation Best Interest”). *See Securities Exchange Act Release No. 86031 (June 5, 2019)*, 84 FR 33318 (July 12, 2019) (“Regulation Best Interest Adopting Release”). At the same time, the Commission adopted Exchange Act Rule 17a-14 (CFR 240.17a-14) and Form CRS (17 CFR 249.640) under the Exchange Act. In connection with these rulemakings, the Commission amended Rule 17a-4 by revising paragraph (e)(5) and adding paragraph (e)(10).

¹⁸ The Commission believes the following records will likely need to be retained by broker-dealers under Rule 17a-4(e)(5): (1) existing account disclosure documents; (2) comprehensive fee schedules; (3) disclosures identifying material conflicts; and (4) memorialized oral disclosures under the circumstances outlined in Section II.C.1 of the Regulation Best Interest Adopting Release, *Oral Disclosure or Disclosure After a Recommendation*.

¹⁹ This estimate is based on the following calculation: 2,578 broker-dealers x 1,639. hours per broker-dealer = 4,225,342 burden hours for all broker-dealers.

of the 39,565 retail customer accounts)²⁰ assuming a broker-dealer needs to upload or file each of the four account documents discussed above for each retail customer account.²¹ Furthermore, the Commission estimates that the approximate ongoing burden associated with the recordkeeping requirement of Rule 17a-4(e)(5) is 1,623 hours per broker-dealer or **4,184,094 burden hours per year.**²²

Rule 17a-4(e)(10) requires broker-dealers subject to Form CRS to maintain each record made pursuant to Rule 17a-3(a)(24) for at least six years. The Commission estimates this increases the burden for each such broker-dealer by 0.10 hours, or an estimated aggregate burden of **258 hours on an annual basis.**²³ This estimate results in a total annual estimated recordkeeping burden for Form CRS records for all BDs of 258 hours.

Records Preserved by Broker-Dealer SBSBs and Broker-Dealer MSBSPs

Telephonic Communications: The Commission amended paragraph (b)(4) of Rule 17a-4 to require broker-dealer SBSBs and broker-dealer MSBSPs to retain telephone calls that have already been recorded and are related to the broker-dealer SBSB's and broker-dealer MSBSP's security-based swap business.²⁴ Paragraph (b)(4) of Rule 17a-4, as amended, only requires the retention of telephonic recordings the broker-dealer SBSB or broker-dealer MSBSP voluntarily chooses to record, so the Commission's burden estimate does not include the cost of recording phone calls. Therefore, the burden imposed by the amendment is to provide adequate physical space and computer hardware and software for storage. The Commission estimates that the amendment to paragraph (b)(4) of Rule 17a-4 imposes an initial burden of 13 hours per firm in the first year and an ongoing burden of 6 hours per year (including the first year). The Commission estimates that there are 17 respondents,²⁵ resulting in an estimated industry-wide initial burden of 221 hours²⁶ in the first year and an ongoing burden of 102 hours per year

²⁰ This estimate is based on the following calculation: (102 million retail customer accounts)/(2,578 broker-dealers) = 39,565 retail customer accounts per broker-dealer.

²¹ This estimate is based on the following calculation: (4 documents per customer account) x (102 million retail customer accounts) x (2 minutes per document) / 60 minutes = 13,600,000 aggregate burden hours.

²² This estimate is based on the following calculation: (2,578 broker-dealers) x 1,623 hours per broker-dealer = 4,184,094 burden hours for all broker-dealers.

²³ 2,578 broker-dealers x 0.1 hours = 258 hours in aggregate.

²⁴ See paragraph (b)(4) of Rule 17a-4, as amended.

²⁵ 16 broker-dealer SBSBs + 1 broker-dealer MSBSP = 17 respondents.

²⁶ 13 hours x 17 broker-dealer SBSBs and broker-dealer MSBSPs = 221 hours.

(including the first year).²⁷ Over a three year period, the total industry burden is estimated to be 527 hours,²⁸ or **176 hours per year when annualized.**²⁹

Security-Based Swap Activities: The Commission amended paragraphs (b)(1), and (b)(8)(v)-(viii), and adding paragraphs (b)(8)(xvi) and (b)(14) of Rule 17a-4 that add five types of records to be preserved by broker-dealers.³⁰ Because the burden to create these records is already accounted for in the Paperwork Reduction Act (“PRA”) estimates for Rule 17a-3, Rule 15c3-1, or in Regulation SBSR, the burdens imposed by these new requirements are to ensure there is adequate physical space and computer hardware and software for storage, ensure these records are preserved for the requisite time period, and produce them when requested. The Commission estimates that these amendments to Rule 17a-4 impose an initial burden of 65 hours per firm in the first year and an ongoing burden of 30 hours per year (including the first year). The Commission estimates that there are 42 respondents,³¹ resulting in an estimated industry-wide initial burden of 2,730 hours³² in the first year and an ongoing burden of 1,260 hours per year (including the first year).³³ Over a three year period, the total industry burden is estimated to be 6,510 hours,³⁴ or **2,170 hours per year when annualized.**³⁵

Broker-Dealer SBSDs and Broker-Dealer MSBSPs: The Commission amended paragraph (b)(1) and adopting paragraphs (b)(15) and (b)(16) of Rule 17a-4 to add five types of records to be preserved by broker-dealer SBSDs and broker-dealer MSBSPs.³⁶ Because the burden to create these records is accounted for in the PRA estimates for Rule 17a-3, or Rules 15Fh-1 through 15Fh-5 and 15Fk-1, the burdens imposed by these amendments are to ensure there is adequate physical space and computer hardware and software for storage, ensure these records are preserved for the requisite time period, and produce them when requested. The

²⁷ 6 hours x 17 broker-dealer SBSDs and broker-dealer MSBSPs = 102 hours.

²⁸ (221 hours in first year + 102 hours in first year) + 102 hours in second year + 102 hours in third year = 527 hours.

²⁹ 527 hours / 3 years = 175.67 hours per year or 10.33 hours per respondent per year.

³⁰ See Rule 17a-4, as amended (paragraph (b)(1) (cross-referencing paragraphs (a)(26) (compliance with possession or control requirements) and (a)(27) (records of reserve computations under Rule 15c3-3(p)(3)) of Rule 17a-3, as amended; paragraph (b)(8)(v) through (viii) (identifying information about swaps); paragraph (b)(8)(xvi) (risk margin calculation); and paragraph (b)(14) (Regulation SBSR information)).

³¹ 16 broker-dealer SBSDs + 1 broker-dealer MSBSP + 25 non-SBSD/MSBSP broker-dealers engaged in security-based swap activities = 42 respondents.

³² 65 hours x 42 respondents = 2,730 hours.

³³ 30 hours x 42 respondents = 1,260 hours.

³⁴ (2,730 hours in first year + 1,260 hours in first year) + 1,260 hours in second year + 1,260 hours in third year = 6,510 hours.

³⁵ 6,510 hours / 3 years = 2,170 hours per year or 51.67 hours per respondent per year.

³⁶ See Rule 17a-4, as amended (paragraph (b)(1), cross-referencing paragraph (a)(25) of Rule 17a-3, as amended (Rule 18a-3 calculations); paragraph (b)(1), cross-referencing paragraph (a)(28) of Rule 17a-3, as amended (unverified transactions); paragraph (b)(1), cross-referencing paragraph (a)(30) of Rule 17a-3, as amended (compliance with business conduct standards); paragraph (b)(15) (documents and notices related to the business conduct standards); and paragraph (b)(16) (special entity documents)).

Commission estimates that these amendments to Rule 17a-4 impose an initial burden of 65 hours per firm in the first year and an ongoing burden of 30 hours per year (including the first year). The Commission estimates that there are 17 respondents,³⁷ resulting in an estimated industry-wide initial burden of 1,105 hours³⁸ in the first year and an ongoing burden of 510 hours per year (including the first year).³⁹ Over a three year period, the total industry burden is estimated to be 2,635 hours,⁴⁰ or **878 hours per year when annualized.**⁴¹

Broker-Dealer SBSBs Only: The Commission amended paragraph (b)(1) of Rule 17a-4 that requires records relating to political contributions to be preserved by broker-dealer SBSBs only.⁴² Because the burden to create this record is accounted for in the PRA estimate for Rule 17a-3, as amended, the burden imposed by this new requirement is to ensure there is adequate physical space and computer hardware and software for storage, ensure the record is preserved for the requisite time period, and produce it when requested. The Commission estimates that this amendment to Rule 17a-4 imposes an initial burden of 13 hours per firm in the first year and an ongoing burden of 6 hours per year (including the first year). The Commission estimates that there are 16 broker-dealer SBSBs, resulting in an estimated industry-wide initial burden of 208 hours⁴³ in the first year and an ongoing burden of 96 hours per year (including the first year).⁴⁴ Over a three year period, the total industry burden is estimated to be 496 hours,⁴⁵ or **165.33 hours per year when annualized.**⁴⁶

2022 Amendments to Rule 17a-4

The amendments to Rule 17a-4(f) added an audit-trail alternative to the current broker-dealer recordkeeping requirement.⁴⁷ The Commission also amended both of these paragraphs to require the broker-dealer to have a backup set of records or the redundant equivalency when records are preserved on an electronic recordkeeping system.⁴⁸ The amendments to Rule 17a-4(f) also replaces the third-party access and undertakings requirements with a requirement that either a designated executive officer or a third party have the access and provide the necessary

³⁷ 16 broker-dealer SBSBs + 1 broker-dealer MSBSP = 17 respondents.

³⁸ 65 hours x 17 broker-dealer SBSBs and broker-dealer MSBSPs = 1,105 hours.

³⁹ 30 hours x 17 broker-dealer SBSBs and broker-dealer MSBSPs = 510 hours.

⁴⁰ (1,105 hours in first year + 510 hours in first year) + 510 hours in second year + 510 hours in third year = 2,635 hours.

⁴¹ 2,635 hours / 3 years = 878.33 hours per year or 51.67 hours per respondent per year.

⁴² See paragraph (b)(1) of Rule 17a-4, as amended (cross-referencing paragraph (a)(29) of Rule 17a-3, as amended (political contributions)).

⁴³ 13 hours x 16 broker-dealer SBSBs = 208 hours.

⁴⁴ 6 hours x 16 broker-dealer SBSBs = 96 hours.

⁴⁵ (208 hours in first year + 96 hours in first year) + 96 hours in second year + 96 hours in third year = 496 hours.

⁴⁶ 496 hours / 3 years = 165.33 hours per year or 9.73 hours per respondent per year.

⁴⁷ See section II.D. of the 2022 *Electronic Recordkeeping Adopting Release*.

⁴⁸ See section II.E. of the 2022 *Electronic Recordkeeping Adopting Release*.

undertakings.⁴⁹ The amendments to Rule 17a-4(f) eliminate a requirement that the broker-dealer notify its DEA before employing an electronic recordkeeping system.⁵⁰ The amendments to Rule 17a-4(j) also require a broker-dealer to furnish a record and its audit trail (if applicable) preserved on an electronic recordkeeping system pursuant to Rules 17a-4(f), respectively, in a reasonably usable electronic format, if requested by a representative of the Commission.⁵¹ The amendments to Rule 17a-4(i) provide an alternative undertaking for certain third-party electronic recordkeeping service providers, in particular cloud service providers.⁵²

The Commission estimates that replacing the third-party access and undertakings requirements with a requirement that either a designated executive officer or a third party have the access and provide the necessary undertakings will result in a one-time burden of 3,333 hours.⁵³ In addition, the Commission estimates that the alternative electronic recordkeeper undertaking will result in a one-time initial burden of 1 hour per affected broker-dealer, for a total of 500 hours.⁵⁴ Finally, the Commission estimates that the need for the five cloud service providers to review and execute the Alternative Undertaking will result in a one-time initial burden of 100 hours per provider, for a total of 500.⁵⁵

Burdens Associated with the 2019 Amendments to Rule 17a-4 Related to Risk Mitigation Techniques

The Commission amended Rule 17a-4(b)(1), (e)(11), and (e)(12) to account for the security-based swap risk mitigation activities of broker-dealers, including Broker-Dealer SBSs and Broker-Dealer MSBSPs (collectively, “SBS Entities”), by, among other things, requiring the preserving of any required records regarding portfolio reconciliation (Rule 15Fi-3(a) and (b)), bilateral offsets (Rule 15Fi-4(a)(1)), bilateral or multilateral portfolio compression (Rule 15Fi-4(b) and (c)), valuation disputes (Rule 15Fi-3(c)), and written trading relationship documentation (Rule 15Fi-5). Rule 17-4 does not require the firm to create these records or perform the underlying task required by the Rule. Rather, the burden to create these records and perform the underlying task is accounted for in Rule 15Fi-3 – 15Fi-5.⁵⁶ Accordingly, the burdens imposed by the requirements in 17a-4 are to ensure these records related to risk mitigation are preserved for the requisite time period and produced when requested. The Commission estimates that these recordkeeping requirements will impose an initial burden of 60 hours per firm for updating the applicable policies and systems required to account for capturing the additional records made pursuant to Rule 15Fi-3 through 15Fi-5, and an ongoing annual burden of 75 hours per firm for

⁴⁹ *Id.*

⁵⁰ *See* section II.C. of the *2022 Electronic Recordkeeping Adopting Release* .

⁵¹ *See* section II.H. of the *2022 Electronic Recordkeeping Adopting Release* .

⁵² *See* section II.G. of the *2022 Electronic Recordkeeping Adopting Release* .

⁵³ One-time initial reporting burden for 3,333 broker-dealers (1 hour x 3,373 broker-dealers) = 3,333 hours.

⁵⁴ One-time initial recordkeeping burden for 500 broker-dealers (1 hour x 500 broker-dealers) = 500 hours.

⁵⁵ One-time initial reporting burden for five cloud service providers: (100 hours x five cloud service providers) = 500 hours.

⁵⁶ *See Risk Mitigation Adopting Release*, 85 FR at 6389.

maintaining such records as well as to make additional updates to the applicable recordkeeping policies and systems to account for the new rules. The Commission estimates that there are 17 SBS Entity respondents, for a total average initial annual burden for all respondents of 1,020 hours⁵⁷ and a total ongoing average annual burden of 1,275 hours.⁵⁸

The estimated burdens associated with Rule 17a-4 are summarized in the following table:

Name of Information Collection	Type of Burden	Number of Respondents	Summary of Hourly Burdens					
			Annual Responses per Respondent	Initial Burden per Entity per Response	Initial Burden Annualized per Entity per	Hourly Burden per Response	Annual Burden Per Entity	Annual Burden for all Respondents
Rule 17a-4	Recordkeeping	3,508	1			254	254	891,032
Rule 17a-4(b)(11)	Recordkeeping	200	1			3	3	600
Rule 17a-4(e)(5) - Initial One-Time	Recordkeeping	2,578	244,627			0.0067	1639.000 ⁹	4,225,342
Rule 17a-4(e)(5) - Ongoing	Recordkeeping	2,578	147,505			0.011	1622.555	4,182,947
Rule 17a-4(e)(10)	Recordkeeping	2,578	1			0.1	0.1	258
17a-4 (b)(4) – Telephonic communications	Recordkeeping	17	1	13	4.333	6	10.333	175.61
Rule 17a-4(b)(1), (b)(8)(v) - Security-Based Swap Activities and Rule 17a-4(b)(8)(xvi) and (b)(14)	Recordkeeping	42	1	65	21.67	30	51.67	2,170
Rule 17a-4(b)(1) Broker-Dealer SBSDs and Broker-Dealer MSBSPs and Rule 17a-4(b)(15) and (b)(16)	Recordkeeping	17	1	65	21.67	30	51.67	878
Rule 17a-4(b)(1) Broker-Dealer SBSDs Only:	Recordkeeping	16	1	13	4.333	6	10.333	165.33
Third party or Designated Executive Officer Undertaking	Reporting	3,333	1	1	.333	0	.333	1,111

⁵⁷ One-time initial reporting burden for 17 SBS Entities (60 hour x 17 SBS Entities) = 1,020 hours.

⁵⁸ 75 hour x 17 SBS Entities = 1,275 hours.

⁵⁹ This estimate is based on the following calculation: (4 documents per customer account) x (102 million retail customer accounts) x (2 minutes per document) / 60 minutes = 13,600,000 aggregate burden hours. (13,600,000/2766 broker-dealers) / 3 = 1,639 hours per year.

Alternative undertaking – Broker-Dealers	Recordkeeping	500	1	1	.333	0	.333	166.67
Alternative undertaking – Cloud Service Providers	Reporting	5	100	1	.333	0	33.333	166.67
Rule 17a-4(b)(1)(e)(11) and (e)(12) Broker-Dealer SBSBs and Broker-Dealer MSBSBs:	Recordkeeping	17	1	60	20	75	95	1615
							TOTAL	9,307,901.33

The Commission believes that requirements resulting from Rule 17a-4 are performed by individuals in a broker-dealer’s compliance department. A Compliance Clerk earns an average of \$70 per hour,⁶⁰ resulting in a total internal cost of compliance of approximately \$699 million (9,983,015 hours x \$ 70).

PROPOSED PARTIAL REVISION: New Burdens Associated with proposed Regulation Best Execution

The Commission estimates that approximately 3,498 brokers-dealers would be subject to proposed Regulation Best Execution and based on FOCUS Report data, approximately 761 of those broker-dealers may be small entities.⁶¹ As stated above, the Commission is proposing the following new recordkeeping requirements for broker-dealers:

- Policies and procedures under proposed Rules 1101(a), (b), and (d) and Rule 1102;
- Documentation of compliance with the best execution standard for conflicted transactions under proposed Rule 1101(b);
- Documentation of payment for order flow arrangements under proposed Rule 1101(b);
- Documentation of the results of the regular review of execution quality under proposed Rule 1101(c);

⁶⁰ This figure is based on SIFMA’s *Office Salaries in the Securities Industry 2013*, modified by Commission staff to account for inflation and an 1,800-hour work-year multiplied by 2.93 to account for bonuses, firm size, employee benefits, and overhead.

⁶¹ Commission rules generally define a broker-dealers as a “small entity” for purposes of the Exchange Act and the Regulatory Flexibility Act if the broker-dealer had a total capital of less than \$500,000 on the dates in the prior fiscal year as of which its audited financial statements were prepared and is not affiliated with any person (other than a natural person that is not a small entity).

- Documentation of the results of the regular review of execution quality by introducing brokers under proposed Rule 1101(d);
- Documentation of the annual review under proposed Rule 1102; and
- Annual report under proposed Rule 1102.

A broker-dealer would be required to preserve a copy of its policies and procedure under proposed Regulation Best Execution in a manner consistent with, and for the periods specified in, Rule 17a-4(e)(7). The Commission believes that current Rule 17a-4(e)(7) under the Exchange Act would apply to the policies and procedures required by proposed Regulation Best Execution.⁶²

The Commission is proposing to amend Rule 17a-4 to add new paragraph (b)(17) to require broker-dealers to preserve all other records made pursuant to proposed Rules 1101 and 1102 for a period of not less than three years, the first two years in a readily accessible place.

Burden for Large Broker-Dealers Policies and Procedures under proposed Rule 1101:

Because the Commission assumes large broker-dealers would utilize their existing recordkeeping systems to preserve any records made in compliance with proposed Rule 1101, the Commission estimates that the burdens associated with such record retention would be minimal. Accordingly, the Commission estimates that large broker-dealers will incur no new initial burdens to retain the records made pursuant to proposed Rule 17a-4(b)(17). Additionally, the Commission estimates that the approximate ongoing burden associated with the recordkeeping requirements of proposed Rule 17a-4(b)(17) for any records made in compliance with proposed Rule 1101 would require 5 hours of in-house compliance personnel per large broker-dealer, **for a total of 13,685 aggregate ongoing burden hours.**⁶³

Burden for Small Broker-Dealers Policies and Procedures under proposed Rule 1101:

Because the Commission assumes small broker-dealers would utilize their existing recordkeeping systems to preserve any records made in compliance with proposed Rule 1101, the Commission estimates that the burdens associated with such record retention would be minimal. Accordingly, the Commission estimates that small broker-dealers will incur no new initial burdens to retain the records made pursuant to proposed Rule 17a-4(b)(17). Additionally, the Commission estimates that the approximate ongoing burden associated with the recordkeeping requirements of proposed Rule 17a-4(b)(17) for any records made in compliance

⁶² Rule 17a-4(e)(7) requires broker-dealers to maintain and preserve in an easily accessible place compliance, supervisory, and procedures manuals (and any updates, modifications, and revisions thereto) describing the policies and practices of the broker-dealer with respect to compliance with applicable laws and rules, and supervision of the activities of associated persons until three years after the termination of the use of the manual. 17 CFR 240.17a-4(e)(7).

⁶³ The Commission estimates the aggregate ongoing burden based on the following calculation: 5 burden hours in-house compliance personnel per large broker-dealers x 2,737 large broker-dealers) = 13,685 burden hours.

with proposed Rule 1101 would require 3 hours of in-house compliance personnel per small broker-dealer, **for a total of 2,283 aggregate ongoing burden hours.**⁶⁴

Burden for Large Broker-Dealers Compliance Procedures under proposed Rule 1102:

The Commission believes that large broker-dealers would utilize their existing recordkeeping systems to preserve any documents necessary to comply with proposed Rule 17a-4(b)(17) for records made pursuant to proposed Rule 1102. Accordingly, the Commission estimates that broker-dealers will incur no new initial burdens to retain the records made pursuant to proposed Rule 17a-4(b)(17). Additionally, the Commission estimates that the approximate ongoing burden associated with the recordkeeping requirements of proposed Rule 19a-4(b)(17) for any records made in compliance with proposed Rule 1102 would require 2 hours in-house compliance personnel per large broker-dealer, **for a total of 5,474 aggregate ongoing burden hours.**⁶⁵

Burden for Small Broker-Dealers Compliance Procedures under proposed Rule 1102:

The Commission believes that small broker-dealers would utilize their existing recordkeeping systems to preserve any documents necessary to comply with proposed Rule 17a-4(b)(17) for records pursuant to the proposed policies and procedures under proposed Rule 1102. Accordingly, the Commission estimates that small broker-dealers will incur no new initial burdens to retain the records made pursuant to proposed Rule 17a-4(b)(17). Additionally, the Commission estimates that the approximate ongoing burden associated with the recordkeeping requirements of proposed Rule 19a-4(b)(17) for any records made in compliance with proposed Rule 1102 would require 1-hour in-house compliance personnel per small broker-dealer, **for a total of 761 aggregate ongoing burden hours.**⁶⁶

Name of Information Collection	Type of Burden	Number of Respondents	Annual Responses per Respondent	Summary of Hourly Burdens				
				Initial Burden per Entity per Response	Initial Burden Annualized per Entity	Ongoing Hourly Burden per Response	Annual Burden Per Entity	Annual Burden for all Respondent
Large Broker-Dealers – Rule 1101	Recordkeeping	2,737	1	0	0	5	5	13,685
Small Broker-Dealers – Rule 1101	Recordkeeping	761	1	0	0	3	3	2,283
Large Broker-Dealers – Rule 1102 (Annual Report)	Recordkeeping	2,737	1	0	0	2	2	5,474

⁶⁴ The Commission estimates the aggregate ongoing burden based on the following calculation: 3 burden hours in-house compliance personnel per small broker-dealer x 761 small broker-dealers = 2,283 burden hours.

⁶⁵ The Commission estimates the aggregate ongoing burden based on the following calculation: 2 burden hours in-house compliance personnel per large broker-dealer x 2,737 large broker-dealers = 5,474 burden hours.

⁶⁶ The Commission estimates the aggregate ongoing burden based on the following calculation: 1 burden hour in-house compliance personnel per small broker-dealer x 761 small broker-dealers = 761 burden hours.

Small Broker-Dealers – Rule 1102 (Annual Report)	Recordkeeping	761	1	0	0	1	1	761
TOTAL								22,203

13. Costs to Respondents

Currently Approved Costs

The following charts summarize the costs that are currently approved for this collection. A description of each cost follows the charts:

Summary of Cost Burdens				
Name of Information Collection	Type of Burden	Number of Respondents	Annual Cost Burden per Respondent	Annual Burden for all Respondents
Rule 17a-4 – Document Storage Costs	Recordkeeping	3,508	\$5,000	\$17,540,000
Telephonic Communications	Recordkeeping	17	\$2,000	\$34,000
Security-Based Swap Activities	Recordkeeping	42	\$600	\$25,200
Broker-Dealer SBSs and Broker-Dealer MSBSPs	Recordkeeping	17	\$600	\$10,200
Broker-Dealer SBSs Only	Recordkeeping	16	\$120	\$1,920
TOTAL				\$17,611,320

Summary of Cost Burdens						
Name of Information Collection	Type of Burden	Number of Respondents	Initial Cost Burden per Respondent	Initial Cost for all Respondents	Annual Cost Burden per Respondent	Annual Burden for all Respondents
Rule 17a-4 (f) – Audit trail alternative to WORM for Large Broker-Dealers	Recordkeeping	20	\$1,000,000	\$20,000,000 (\$6,666,660 annualized)	\$120,000	\$2,400,000 \$6,666,660
Rule 17a-4 (f) – Audit trail alternative to WORM for Small Broker-Dealers	Recordkeeping	80	\$100,000	\$8,000,000 (\$2,666,640 annualized)	\$12,000	\$960,000 \$2,666,640
Rule 17a-4 (f) – Backup Recordkeeping Systems or the redundant equivalency for Large Broker-Dealers	Recordkeeping	20	\$250,000	\$5,000,000 (\$1,666,660 annualized)	\$30,000	\$600,000 \$1,666,660

Rule 17a-4 (f) – Backup Recordkeeping Systems or the redundant equivalency for Small Broker- Dealers	Recordkeeping	80	\$25,000	\$2,000,000 (\$666,640 annualized)	\$3,000	\$240,000 \$666,640
Third party or Designated Executive Officer Undertaking	Reporting	3,333	\$497	\$1,656,501 (\$552,167 annualized)	\$0	\$0 \$552,167
Alternative undertaking – Broker- Dealers	Recordkeeping	500	\$497	\$248,500 (\$82,833 annualized)	\$0	\$0 \$82,833
Alternative undertaking – Cloud Service Providers	Reporting	5	\$497	\$248,500 (\$82,833 annualized)	\$0	\$0 \$82,833
					TOTAL	\$16,584,443

Rule 17a-4 – Document Storage Costs.

Based on conversations with members of the securities industry and the Commission’s experience in the area, we estimate that the average broker-dealer spends approximately \$5,000 each year to store documents required to be retained under Rule 17a-4. Costs include the cost of physical space, computer hardware and software, etc., which vary widely depending on the size of the broker-dealer and the type of storage media employed. The Commission estimates that the **annual reporting and recordkeeping cost burden is \$17,540,000.** This cost is calculated by the number of active, registered broker-dealers multiplied by the recordkeeping cost for each respondent (3,508 active, registered broker-dealers x \$5,000). This is a recordkeeping cost.

Telephonic Communications: The Commission estimates that each applicable firm incurs an ongoing annual cost of approximately \$2,000 per firm for server, equipment, and systems development costs. The Commission estimates that there are 17 respondents,⁶⁷ resulting in an estimated industry-wide **ongoing annual cost of \$34,000.**⁶⁸

⁶⁷ 16 broker-dealer SBSBs + 1 broker-dealer MSBSP = 17 respondents.

⁶⁸ \$2,000 per firm x 17 respondents = \$34,000.

Security-Based Swap Activities: The Commission estimates that the amendments to paragraphs (b)(1), (b)(8)(v)-(viii) and new paragraphs (b)(8)(xvi) and (b)(14) of Rule 17a-4 impose an ongoing annual cost of approximately \$600 per firm. The Commission estimates that there are 42 respondents,⁶⁹ resulting in an estimated industry-wide **ongoing annual cost of \$25,200.**⁷⁰

Broker-Dealer SBSDs and Broker-Dealer MSBSPs: The Commission estimates that the amendments to paragraph (b)(1) and new paragraphs (b)(15) and (b)(16) of Rule 17a-4 impose ongoing annual cost of approximately \$600 per firm. The Commission estimates that there are 17 respondents,⁷¹ resulting in an estimated industry-wide **ongoing annual cost of \$10,200.**⁷²

Broker-Dealer SBSDs Only: The Commission estimates that the amendments to paragraph (b)(1) of Rule 17a-4 impose an ongoing annual cost of approximately \$120 per firm. The Commission estimates that there are 16 broker-dealer SBSDs, resulting in an estimated industry-wide **ongoing annual cost of \$1,920.**⁷³

Costs Associated with the 2022 Amendments to Rule 17a-4.⁷⁴

As described above, the amendments to Rule 17a-4(f) add an audit-trail alternative to the current broker-dealer recordkeeping requirement.⁷⁵ The Commission also amended both of these paragraphs to require the broker-dealer to have a backup set of records or the redundant equivalency when records are preserved on an electronic recordkeeping system.⁷⁶ The amendments to Rule 17a-4(f) also replaced the third-party access and undertakings requirements with a requirement that either a third party or a designated executive officer of the broker-dealer have the access and provide the necessary undertakings.⁷⁷ The amendments to Rule 17a-4(f) eliminated a requirement that the broker-dealer notify its DEA before employing an electronic

⁶⁹ 16 broker-dealer SBSDs + 1 broker-dealer MSBSP + 25 non-SBSD/MSBSP broker-dealers engaged in security-based swap activities = 42 respondents.

⁷⁰ \$600 per firm x 42 respondents = \$25,200.

⁷¹ 16 broker-dealer SBSDs + 1 broker-dealer MSBSP = 17 respondents.

⁷² \$600 per firm x 17 respondents = \$10,200.

⁷³ \$120 per firm x 16 broker-dealer SBSDs = \$1,920.

⁷⁴ Throughout this section, to monetize the internal costs the Commission staff used data from the SIFMA publications, Management and Professional Earnings in the Securities Industry—2013, and Office Salaries in the Securities Industry—2013, modified by the Commission staff to account for an 1800 hour work-year and multiplied by 5.35 (professionals) or 2.93 (office) to account for bonuses, firm size, employee benefits and overhead. These figures have been adjusted for inflation through the end of 2020 using data published by the Bureau of Labor Statistics.

⁷⁵ See section II.D. & E. of the 2022 *Electronic Recordkeeping Adopting Release* (discussing this amendment).

⁷⁶ See section II.D. of the 2022 *Electronic Recordkeeping Adopting Release* (discussing this amendment).

⁷⁷ *Id.*

recordkeeping system.⁷⁸ The amendments to Rule 17a-4(j) also require a broker-dealer furnish a record and its audit trail (if applicable) preserved on an electronic recordkeeping system pursuant to Rules 17a-4(f), respectively, in a reasonably usable electronic format, if requested by a representative of the Commission.⁷⁹ The amendments to Rule 17a-4(i) provide an alternative undertaking for certain third-party electronic recordkeeping service providers, in particular cloud service providers.⁸⁰

Based upon information provided to the Commission by the securities industry, the Commission estimates that the initial cost to build and implement a WORM-compliant electronic recordkeeping system for a large broker-dealer is \$10 million, with an additional cost of \$1.2 million annually to maintain the system.⁸¹ Based on feedback from the securities industry, the Commission believes that the initial cost to build and implement an electronic recordkeeping system that meets the audit-trail requirements and the ongoing cost to maintain the system will be substantially lower than the analogous costs that are incurred with respect to a WORM-compliant system.⁸² Consequently, the Commission estimates that the initial cost to build and implement an electronic recordkeeping system that meets the audit-trail requirement for a large broker-dealer is \$1,000,000, with an additional cost of \$120,000 annually to maintain the system. There are 802 broker-dealers with assets greater than \$10 million. The Commission does not believe any of these firms will elect to build a WORM-compliant electronic recordkeeping system. Moreover, the Commission estimates that most of these firms have electronic recordkeeping systems that could meet the audit-trail requirement or that could be configured to meet that requirement without the need to build a new system. The Commission estimates that 20 of these firms will elect to build a new electronic recordkeeping system to meet the audit-trail requirement for an initial one-time industry cost of \$20,000,000 (an annualized initial cost of \$6,666,660) and an annual cost of \$2,400,000.

The Commission estimates that the cost for the 2,749 broker-dealers with \$10 million or less in total assets to build and maintain an electronic recordkeeping system that meets the audit-trail requirement will be significantly less than the \$1,000,000 initial and \$120,000 annual costs estimated for the 802 larger broker-dealers. Consequently, the Commission estimates that the initial cost to build and implement an electronic recordkeeping system that meets the audit-trail requirement for these smaller broker-dealers is \$100,000, with an additional cost of \$12,000 annually to maintain the system. The Commission estimates that most of the 2,749 broker-dealers with \$10,000,000 or less in total assets will continue to preserve records in the manner they do today: using a WORM-compliant system, using micrographic media, or maintaining paper records. The Commission estimates that 80 of these firms will elect to build a new electronic recordkeeping system to meet the audit-trail requirement for an initial one-time

⁷⁸ See section II.C. of the *2022 Electronic Recordkeeping Adopting Release* (discussing this amendment).

⁷⁹ See section II.H. of the *2022 Electronic Recordkeeping Adopting Release* (discussing this amendment).

⁸⁰ See section II.G. of the *2022 Electronic Recordkeeping Adopting Release* (discussing this amendment).

⁸¹ See Petition 4-713 (Nov. 14, 2017) filed by the Securities Industry Financial Markets Association, Financial Services Roundtable, Futures Industry Association, International Swaps Derivatives Association, and Financial Services Institute available at <https://www.sec.gov/rules/petitions/2017/petn4-713.pdf> (“Rule 17a-4(f) Rulemaking Petition”). at 4-5.

⁸² See *e.g.* Rule 17a-4(f) Rulemaking Petition at 6-7.

industry cost of \$8,000,000 (an annualized initial cost of \$2,666,640) and an annual cost of \$960,000.

The Commission believes the initial and ongoing costs to establish backup electronic recordkeeping systems or the redundant equivalency will be substantially less than the costs of the primary electronic recordkeeping systems because of the benefit of economies of scale for the backup system or the redundant equivalency whereby common technology and personnel could be used for both systems. The Commission estimates that the costs for the 802 larger broker-dealers will be \$250,000 in initial burdens and costs and \$30,000 in annual burdens and costs. Further, the Commission expects that the broker-dealers that have electronic recordkeeping systems that could meet the audit-trail requirement or that could be configured to meet that requirement without the need to build a new system also maintain backup recordkeeping systems or the redundant equivalencies for business continuity purposes. Therefore, the initial and annual costs will be incurred by the 20 firms that elect to build a new electronic recordkeeping system that meets that audit-trail requirement. Consequently, the Commission estimates that the industry-wide costs and burdens for these firms will be \$5,000,000 in initial costs (an annualized initial cost of \$1,666,660) and burdens and \$600,000 in annual costs and burdens.

The Commission estimates that the costs incurred by the 80 smaller broker-dealers that will build electronic recordkeeping systems to meet the audit-trail requirement and, therefore, need to build a backup recordkeeping system or the redundant equivalency, will be substantially less than the costs and burdens incurred by the larger broker-dealers. The Commission estimates that these firms will incur an initial costs of \$25,000 and ongoing annual costs of \$3,000. Therefore, the Commission estimates that the industry-wide costs for these firms will be \$2,000,000 in initial costs (an annualized initial cost of \$666,640) and \$240,000 in ongoing annual costs.

The Commission estimates that replacing the third-party access and undertakings requirements with a requirement that either a designated executive officer or a third party have the access and provide the necessary undertakings will result in a one-time cost of \$1,656,501.⁸³ In addition, the Commission estimates that the alternative electronic recordkeeper undertaking will result in a one-time initial cost of \$248,500.⁸⁴ Finally, the Commission estimates that the need for the five cloud service providers to review and execute the Alternative Undertaking will result in a one-time initial cost of \$248,500.⁸⁵

Proposed Regulation Best Execution

As the Commission believes that both large and small broker-dealers would utilize their existing recordkeeping systems to preserve any documents necessary to comply with proposed

⁸³ One-time initial reporting cost for 3,333 broker-dealers (1 hour x 3,333 broker-dealers) x \$497 per hour (at the controller hourly rate) = \$1,656,501.

⁸⁴ One-time initial recordkeeping cost for 500 broker-dealers (1 hour x 500 broker-dealers) x \$497 per hour (at the controller hourly rate) = \$248,500.

⁸⁵ One-time initial reporting cost for five cloud service providers: (100 hours x five cloud service providers) x \$497 per hour (at the controller hourly rate) = \$248,500.

Rule 17a-4(b)(17), the Commission estimates that broker-dealers will incur no new initial costs to retain the records made pursuant to proposed Rule 1101 and Rule 1102. Additionally, the Commission does not believe that the ongoing costs associated with ensuring compliance with the retention schedule would change from the current costs associated with ensuring compliance with existing Rule 17a-4. Accordingly, there are **no new costs pursuant to proposed Rule 17a-4(b)(17)**.

14. Costs to the Federal Government

The federal government does not incur a cost for this collection of information since it relates to a recordkeeping burden for the respondents.

15. Changes in Burden

The Commission's proposed Regulation Best Execution would modify the collections of information in Rule 17a-4 by adding the following new collections.

Summary of Change in Hourly Burden (Annual)				
Name of Information Collection	Previous Burden	New Estimated Burden	Change in Burden	Reason for the Change
Large Broker-Dealers – Rule 1101	0	13,685	13,685	Regulation Best Execution proposal
Small Broker-Dealers – Rule 1101	0	2,283	2,283	Regulation Best Execution proposal
Large Broker-Dealers – Rule 1102 (Annual Report)	0	5,474	5,474	Regulation Best Execution proposal
Small Broker-Dealers – Rule 1102 (Annual Report)	0	761	761	Regulation Best Execution proposal
TOTAL PROPOSED CHANGE IN BURDEN				22,203

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.