

**SUPPORTING STATEMENT**  
**for the Paperwork Reduction Act Information Collection Submission for Rule 18a-8**  
**3235-0750**

This submission is being made pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 et seq.

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

Exchange Act Rule 18a-8 (17 CFR 240.18a-8) specifies the circumstances under which stand-alone security-based swap dealers (“SBSDs”), stand-alone major security-based swap participants (“MSBSPs”), bank SBSDs, and bank MSBSPs must notify the Commission about their financial or operational condition, as well as the form that the notice must take.<sup>1</sup> Rule 18a-8 is modeled on Exchange Act Rule 17a-11 (17 CFR 240.17a-11), which applies to broker-dealers, but Rule 18a-8 does not include a parallel requirement for every requirement in Rule 17a-11 because some of the Rule 17a-11 notices relate to calculations that would not be relevant to stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs.<sup>2</sup>

The table below provides a summary of Rule 18a-8’s collections of information and indicates to which type of entity each provision applies.

	Model stand-alone SBSDs	Non-model stand-alone SBSDs	Bank SBSDs	Stand-alone MSBSPs
Net capital below minimum	Rule 18a-8(a)(1)(i)	Rule 18a-8(a)(1)(i)		
Tentative net capital below minimum	Rule 18a-8(a)(1)(ii)			
Tangible net worth below minimum				Rule 18a-8(a)(2)
Early warning of net capital	Rule 18a-8(b)(1)	Rule 18a-8(b)(1)		
Early warning of tentative net capital	Rule 18a-8(b)(2)			
Early warning of tangible net worth				Rule 18a-8(b)(3)
Backtesting exception	Rule 18a-8(b)(4)			
Notice of adjustment of reported capital category			Rule 18a-8(c)	
Failure to make and keep current books and records	Rule 18a-8(d)	Rule 18a-8(d)	Rule 18a-8(d)	Rule 18a-8(d)
Material weakness	Rule 18a-8(e)	Rule 18a-8(e)		
Failure to make a required reserve deposit	Rule 18a-8(g)	Rule 18a-8(g)	Rule 18a-8(g)	

**2. Purpose and Use of the Information Collection**

The information obtained under Rule 18a-8 is used to monitor the financial and operational condition of stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank

<sup>1</sup> 17 CFR 240.18a-8.

<sup>2</sup> See, e.g., 17 CFR 240.17a-11(b)(2) and (c)(1).

MSBSPs. This information alerts the Commission of the need to increase surveillance of the firm's financial and operational condition. No similar information is already available to use or modify for purposes of complying with Rule 18a-8 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 monitor stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs experiencing financial or operational difficulties.

### **3. Consideration Given to Information Technology**

Under paragraph (h) of Rule 18a-8, firms are required to give or transmit notices required by Rule 18a-8 to the principal office of the Commission in Washington, DC and the regional office of the Commission for the region in which the SBSD or MSBSP has its principal place of business. Notices required by Rule 18a-8 can also be submitted to an email address specified on the Commission's website. Additionally, reports required by paragraphs (d) and (e)(2) of Rule 18a-8 may be transmitted by overnight delivery.

### **4. Duplication**

Duplication of information is not a concern because the reporting requirements are only applicable to those stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs that trigger specified early warning mechanisms set forth in Rule 18a-8. The Commission is not aware of other sources of such information (for example, another federal regulatory agency), and given the nature of the notification requirements and the Commission's need to receive timely notice of the events specified in the rule, reliance on another source for the information would undermine the Commission's ability to effectively regulate stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs. Consequently, to the extent that any duplication, to the extent it exists, would be warranted.

### **5. Effect on Small Entities**

SBSDs and MSBSPs exceed the thresholds defining "small entities".<sup>3</sup> Thus, the requirements under Rule 18a-8 are not expected to have a significant economic impact on a small entity.

### **6. Consequences of Not Conducting Collection**

In the absence of Rule 18a-8, the Commission and, if applicable, the CFTC, might not be promptly alerted to a stand-alone SBSD, stand-alone MSBSP, bank SBSD, or bank MSBSP's financial or operational problems.

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

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<sup>3</sup> Section 601(b) of the Regulatory Flexibility Act ("RFA") defines the term "small entity." The statute, however, permits agencies to formulate their own definitions. The Commission has adopted definitions for the term "small entity" in accordance with the RFA. Those definitions are set forth in 17 CFR 240.0-10. *See* Statement of Management on Internal Accounting Control, Exchange Act Release No. 18451 (Jan. 28, 1982), 47 FR 5215 (Feb. 4, 1982).

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 Commission received no comments regarding the collection of information requirements.

## **9. Payment or Gift**

No payments or gifts were provided to respondents.

## **10. Confidentiality**

The reports required by Rule 18a-8 are available only to the staff of the Commission and if applicable, state regulatory authorities, banking regulators and the CFTC, and self-regulatory organizations. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. § 552, and the Commission's rules thereunder (17 CFR 200.80(b)(8)), the Commission generally would not publish or make available to any person notices or reports received pursuant to Rule 18a-8. The Commission believes that information obtained under Rule 18a-8 would relate to a condition report prepared for the use of the Commission and other federal governmental authorities responsible for the regulation or supervision of stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs.

## **11. Sensitive Questions**

No information of a sensitive nature will be required under this collection of information. The agency has determined that neither a PIA nor a SORN are required with the collection of information

## **12. Burden of Information Collection**

Rule 18a-8 requires non-broker-dealer SBSDs and non-broker-dealer MSBSPs to notify the Commission of certain indicia of their financial condition.<sup>4</sup>

The Commission estimates that each Rule 18a-8 notice would take approximately 55 minutes to prepare and file, in contrast to its estimate that a Rule 17a-11 notice would take one hour to prepare and file, because stand-alone SBSDs and stand-alone MSBSPs do not have a DEA with which to file a copy of the Rule 18a-8 notice and bank SBSDs and bank MSBSPs are not required to file the Rule 18a-8 notice with their prudential regulator.

The Commission received five Rule 18a-8 notices between January 1, 2023 and December 31, 2023. Therefore, the Commission estimates that Rule 18a-8 would result in **an**

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<sup>4</sup> See 17 CFR 240.18a-8.

**industry-wide annual burden of approximately 5 hours (rounded up from 4.6 hours) per year.**<sup>5</sup> These burdens are reporting burdens.

Summary of Hourly Burdens										
		A.	B.	C.	D.	E.	F.	G.		
Name of Information Collection	Type of Burden	Number of Entities Impacted	Annual Responses per Entity	Initial Burden per Entity per Response	Initial Burden Annualized per Entity per Response	Ongoing Burden per Entity per Response	Annual Burden Per Entity per Response	Total Annual Burden Per Entity	Total Industry Burden	Small Business Entities Affected
					[C ÷ 3 years]		[D + E]	[F * B]	[G * A]	[A * 0%]
Rule 18a-8 Notice	Reporting	5	1	0.00	0.00	0.92	0.92	0.92	4.60	0.00
<b>TOTAL HOURLY BURDEN FOR ALL RESPONDENTS</b>									<b>4.60</b>	

### 13. Costs to Respondents

The Commission does not anticipate that Rule 18a-8 will impose capital and start-up costs or operation, maintenance, and purchase of services costs.

### 14. Costs to Federal Government

Rule 18a-8 is not expected to result in costs to the federal government due to contracting, information technology, development, hiring one or more new employees, or reallocating existing employees.

### 15. Changes in Burden

There is no change in the estimated burdens.

### 16. Information Collection Planned for Statistical Purposes

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

### 17. OMB Expiration Date Display Approval

The Commission is not seeking approval to not display the OMB approval expiration date.

### 18. Exceptions to Certification for PRA Submissions

This collection complies with the requirements in 5 CFR 1320.9.

<sup>5</sup> 55 minutes / 60 minutes = 0.92 hours per notice x 5 notices per year = 4.6 hours per year (rounded up to 5 hours).

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not involve statistical methods.