

**SUPPORTING STATEMENT**  
**for the Paperwork Reduction Act Information Collection Submission for**  
**Rule 17a-12/Form X-17A-5 Part II**  
**OMB Control No. 3235-0498**

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**

Section 17(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") requires registered broker-dealers to make, keep, furnish, and disseminate records and reports prescribed by the Commission as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act. Section 17(e) of the Exchange Act requires every registered broker-dealer to file annually with the Commission a balance sheet and income statement certified by an independent public accountant or by an accounting firm registered with the Public Company Accounting Oversight Board, if the firm is required to be registered under the Sarbanes-Oxley Act of 2002, and such other information concerning its financial condition as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Pursuant to this authority, in October 1998 the Commission enacted Rule 17a-12<sup>1</sup> and amended Form X-17A-5 to add Part II<sup>2</sup> to establish the basic periodic reporting structure for OTC (over-the-counter) derivatives dealers. Rule 17a-12 requires OTC derivatives dealers registered with the Commission to file quarterly Financial and Operational Combined Uniform Single Reports ("FOCUS" reports) on Part II of Form X-17A-5 and annual audited reports with the Commission. The provisions of Rule 17a-12 are similar to those contained in Exchange Act Rule 17a-5<sup>3</sup>— reports to be made by certain brokers and dealers – but take into consideration the more limited and unique business conducted by OTC derivatives dealers.

Rule 17a-12 also requires that OTC derivatives dealers file an annual audited report. Among other things, the audited report must include a statement of financial condition, a statement of income, a statement of cash flows, a statement of changes in owners' equity, a statement of changes in subordinated liabilities, and supporting schedules, including a computation of net capital. The report must be audited by an independent public accountant. Concurrently with the annual audited report, OTC derivatives dealers must file supplemental reports by the auditor, including an accountant's report on material inadequacies and reportable conditions, an accountant's report on management controls, and an accountant's report on inventory pricing and modeling.

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<sup>1</sup> 17 CFR 240.17a-12.

<sup>2</sup> 17 CFR 249.617.

<sup>3</sup> 17 CFR 240.17a-5.

## **2024 Rule Amendments**

The Commission recently amended Rule 17a-12 to require OTC derivatives dealers to electronically file annual audited reports and related annual filings with the Commission electronically in Inline eXtensible Business Reporting Language (“Inline XBRL”) through the Commission’s Electronic Data Gathering, Analysis, and Retrieval (“EDGAR”) system.<sup>4</sup> The filings were previously made either in paper or voluntarily on the EDGAR system as PDF documents. The Commission also removed the oath or affirmation notarization requirement of the annual audited reports. In addition, the Commission is amending Rule 17a-12 to require OTC derivatives dealers to file the unaudited FOCUS Report Part II electronically through the SEC eFOCUS system instead of in paper. The Commission is also allowing electronic signatures in Rule 17a-12 filings, which includes the FOCUS Report. Finally, the Commission made corrective and clarifying amendments to FOCUS Report Part II.

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

The information collected under Rule 17a-12 is essential to the regulation and oversight of OTC derivatives dealers and the primary means the Commission uses to monitor and enforce compliance with the Commission’s financial responsibility rules as prescribed by the Exchange Act. These quarterly FOCUS and annual audited reports are used to evaluate the securities-related and other activities each OTC derivatives dealer is engaged in, the extent to which it is engaged in those activities, and how economic events and government policies might affect various segments of the securities industry. In addition, the Commission staff reviews FOCUS report information as part of its preparation for examinations and inspections. A firm’s failure to comply with this rule would severely impair the Commission’s ability to protect customers, industry counterparties, and others.

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

Most OTC derivatives dealers and other firms engaged in swaps and related activities use automated systems to prepare information provided on quarterly FOCUS reports and annual audited reports. As stated above, under the 2024 rule amendments, OTC derivatives dealers are required to file quarterly FOCUS reports due on or after December 31, 2024, electronically on the SEC eFOCUS system, and annual audited reports and supplemental reports due on or after December 31, 2024, electronically on EDGAR. For annual audited reports and supplemental reports due on or after December 31, 2025, OTC derivative dealers also will be required to apply machine-readable Inline XBRL data “tags” to such reports.

### **4. Duplication**

OTC derivatives dealers are not otherwise required to obtain and maintain the information required by the rule.

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<sup>4</sup> Electronic Submission of Certain Materials Under the Securities Exchange Act of 1934; Amendments Regarding the FOCUS Report; SEC Release Nos. 33-11342; 34-101925; IC- 35420; (Dec. 16, 2024); 90 FR 7250 (Jan. 21, 2024) (File No. S7-08-23) (“Adopting Release”).

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

The rule does not affect small entities.

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

If the collection were not made, or were made less frequently, the protection afforded to the public would be lessened.

## **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 Commission requested comment on the collection of information requirements in the proposing release in March 2023.<sup>5</sup> Multiple commenters generally agreed that the Inline XBRL requirements under the rule amendments will impose additional costs on affected entities, but disagreed with the Commission's estimates on the specific nature and magnitude of such costs.<sup>6</sup> The Commission considered these comments. The Commission estimated at proposal, and continues to estimate for the rule amendments, that certain affected filers or submitters (specifically, clearing agencies and exchanges not affiliated with public companies) will incur costs of \$20,000 to \$30,000 to structure the documents, but that other affected filers or submitters will incur lower costs. The Commission has, however, increased the burden and cost estimates for Inline XBRL tagging of the relevant documents. In addition, the Commission received comment asking us to remove the requirement for the annual audit's oath or affirmation to be notarized. The Commission considered the comment and agreed that the notarization requirement can be eliminated.

## **9. Payment or Gift to Respondents**

Not applicable. No payment or gift was provided to respondents.

## **10. Confidentiality**

Information provided by OTC derivatives dealers in FOCUS reports, supporting schedules, and annual audited reports is confidential pursuant to Rule 17a-12(a)(2) and (c)(4). The statutory basis for this confidential treatment is the exemption contained in Section (b)(4) of the Freedom of Information Act, 5 U.S.C. 552, which provides that the requirement for public

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<sup>5</sup> See Electronic Submission of Certain Materials Under the Securities Exchange Act of 1934; Amendments Regarding the FOCUS Report; SEC Release Nos. 33-11176, 34-97182, IC-34864 (Mar. 22, 2023); 88 FR 23920 (Apr. 18, 2023) (File No. S7-08-23).

<sup>6</sup> The comments on the proposing release are available at <https://www.sec.gov/comments/s7-08-23/s70823.htm>.

dissemination does not apply to commercial or financial information which is privileged or confidential.

## **11. Sensitive Questions**

The information collection collects basic elements of PII including name, job title, and work address that is covered by the EDGAR PIA. No information of a sensitive nature will be required under this collection of information. The agency has determined that a SORN is not required in connection with the collection of information.

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

As of December 31, 2023, there are seven OTC derivatives dealers registered with the Commission, and four of these OTC derivatives dealers also are registered with the Commission as Security-Based Swap Dealers (“SBSDs”). As a consequence of these entities registering as SBSDs, they are subject to Rule 18a-7 under the Exchange Act, rather than Rule 17a-12, and only three OTC derivatives dealers are subject to the requirements of Rule 17a-12.

### **Currently Approved Burden**

**FOCUS Report on Part II of Form X-17A-5:** The staff estimates that the average amount of time necessary to prepare and file the quarterly FOCUS reports on Part II of Form X-17A-5 is 80 hours per OTC derivatives dealer per year (based upon an average of 20 hours spent preparing each response and 4 responses per year). Thus, the annual industrywide ongoing burden is 240 hours per year ( $80 \times 3 = 240$ ).

**Annual Audited Report and Supporting Schedules:** The staff estimates that the average amount of time necessary to prepare and file the annual audited report and supporting schedules is 100 hours per OTC derivatives dealer per year. Thus, the annual industrywide ongoing burden is 300 hours per year ( $100 \times 3 = 300$ ).

### **2024 Rule Amendments**

**Filing Annual Audit on EDGAR:** The Commission is requiring OTC derivatives dealers to file the annual audited report and supporting schedules on EDGAR. The Commission estimates that the one-time burden for an OTC derivatives dealer to familiarize itself with EDGAR would be approximately 16 hours. However, because all three OTC derivatives dealers already voluntarily file their annual reports on EDGAR, the Commission estimates that the one-time industry-wide burden would be 0 hours.

**Filing Annual Audit in Inline XBRL – Initial Burden:** The Commission is requiring OTC derivatives dealers to file the annual audited report and supporting schedules on EDGAR in Inline XBRL. On average, respondents are estimated to incur 7 burden hours for the first response to be tagged in Inline XBRL, resulting in an industry-wide initial internal burden of 21 hours ( $7 \times 3 = 21$ ), or 7 hours on an annualized basis ( $21 / 3 = 7$ ).

**Filing Annual Audit in Inline XBRL – Ongoing Burden:** The Commission is requiring OTC derivatives dealers to file the annual audited report and supporting schedules on EDGAR in Inline XBRL. On average, respondents are estimated to incur an ongoing burden of 4.5 hours to tag responses in Inline XBRL, resulting in an industry-wide ongoing annual industry-wide ongoing internal burden of 13.5 hours ( $4.5 \times 3 = 13.5$ ).

**Corrective and Clarifying Amendments to FOCUS Report Part II:** The Commission is making corrective and clarifying amendments to FOCUS Report Part II. The Commission estimates that the amendments will result in an initial burden of 5 hours on each OTC derivatives dealer so firms can familiarize themselves with the amendments to FOCUS Report Part II, resulting in an industry-wide initial burden of 15 hours ( $5 \times 3 = 15$ ), or 5 hours on an annualized basis ( $15 / 3 = 5$ ). The Commission believes that these proposed amendments will either have no ongoing burden on or reduce the ongoing burden OTC derivatives dealers because they will reduce questions about where and how to report items on the form.

**FOCUS Report Signature Requirement:** The Commission is requiring only the CEO or CFO's signature lines to be signed on the FOCUS Report's cover page, and allows these signatures to be signed either manually or electronically. This amendment is expected to result in an initial burden of 1 hour on each filer so that the firm can review the standards for an electronic signature on the FOCUS Report Part II, resulting in an industry-wide initial burden of 3 hours ( $1 \times 3 = 3$ ), or 1 hour on an annualized basis ( $3 / 3 = 1$ ). However, this amendment is expected to either have no impact on or reduce the ongoing burden on FOCUS Report filers, because they will not be required to furnish as many signatures as before the amendment, and it may be easier to prepare electronic signatures rather than manual signatures since firms will already be familiar with the process and can easily obtain these signatures while working remotely.

**FOCUS Report to be Filed on SEC eFOCUS:** The Commission is requiring OTC derivatives dealers to file the FOCUS Report electronically on the SEC eFOCUS system instead of in paper. The Commission estimates that this amendment will result in an initial burden of 15 hours on each OTC derivatives dealer so that the firm can familiarize itself with the SEC eFOCUS system, resulting in an industry-wide initial burden of 45 hours ( $15 \times 3 = 45$ ), or 15 hours on an annualized basis ( $45 / 3 = 15$ ). However, this amendment is expected to either have no impact on or reduce the ongoing burden on OTC derivatives dealers, because filing the FOCUS Report electronically is an automated process as compared to filing by paper.

**Removal of Oath or Affirmation Notarization Requirement:** The Commission is amending Part III of Form X-17A-5 (i.e., the annual audit's cover page) to remove the signature line for the notary public. The Commission received comment asking us to remove the requirement for the annual audit's oath or affirmation to be notarized. The Commission considered the comment and agreed that the notarization requirement can be eliminated. We believe this amendment will generally either have no impact on or reduce the ongoing burden on the filers because they will no longer need to obtain notarization of the annual reports. Nevertheless, the Commission estimates that the amendment will result in an initial burden of five hours on each firm so firms can familiarize themselves with the change, resulting in an industry-wide initial burden of 15 hours ( $5 \times 3 = 15$ ), or 5 hours on an annualized basis ( $15 / 3 =$

5).

Therefore, the total industry-wide hourly burden associated with Rule 17a-12 is estimated to be 586.50 hours per year. The burden is summarized in the table below.

Rule 17a-12 - Summary of Hourly Burdens									
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
Rule 17a-12/Form X-17A-5 Part II	Reporting	3	4	0	0	20	80	80	240
Rule 17a-12 – Annual Audited Report and Supporting Schedules	Reporting	3	1	0	0	100	100	100	300
2024 Amendment - Filing annual audit on EDGAR – Initial burden	Reporting	0	1	16.00	5.33	0.00	5.33	5.33	0.00
2024 Amendment - Filing annual audit in Inline XBRL – Initial burden	Reporting	3	1	7.00	2.33	0.00	2.33	2.33	7.00
2024 Amendment - Filing annual audit in Inline XBRL – Ongoing burden	Reporting	3	1	0.00	0.00	4.50	4.50	4.50	13.50
2024 Amendment - Corrective and clarifying amendments to FOCUS Report Part II – Initial burden	Reporting	3	1	5.00	1.67	0.00	1.67	1.67	5.00
2024 Amendment - Amendments to FOCUS Report signature requirement – Initial burden	Reporting	3	1	1.00	0.33	0.00	0.33	0.33	1.00
2024 Amendment - Filing FOCUS Report on SEC eFOCUS – Initial burden	Reporting	3	1	15.00	5.00	0.00	5.00	5.00	15.00
2024 Amendment - Removal of oath or affirmation notarization requirement – Initial burden	Reporting	3	1	5.00	1.67	0.00	1.67	1.67	5.00
<b>TOTAL HOURLY BURDEN FOR ALL RESPONDENTS</b>									<b>586.50</b>

### 13. Costs to Respondents

#### Currently Approved Burden

The Commission estimates that the average annual reporting cost per OTC derivatives dealer for the independent public accountant to examine the financial statements is approximately \$46,300 per respondent, resulting in an industrywide ongoing cost burden of \$138,900 ( $\$46,300 \times 3 = \$138,900$ ).

#### 2024 Rule Amendments

The Commission estimates that each OTC derivative dealer will incur \$1,600 in initial cost and \$1,000 in ongoing cost to tag the annual audited reports in Inline XBRL. Thus, the 2024 amendments resulted in \$4,800 ( $\$1,600 \times 3 = \$4,800$ ) of total industrywide initial cost, or \$1,600 ( $\$4,800 / 3 = \$1,600$ ) on an annualized basis, and \$3,000 ( $\$1,000 \times 3 = \$3,000$ ) of total industrywide ongoing cost.

Therefore, the total industry-wide cost burden associated with Rule 17a-12 is estimated to be \$143,500 hours per year. The burden is summarized in the table below.

Rule 17a-12 - Summary of Dollar Costs									
Name of Information Collection	Type of Burden	Number of Entities Impacted	Annual Responses per Entity	Initial Cost per Entity per Response	Initial Cost Annualized per Entity per Response	Ongoing Cost per Entity per Response	Annual Cost Per Entity per Response	Total Annual Cost Per Entity	Total Industry Cost
Rule 17a-12 – Annual Audited Report and Supporting Schedules	Reporting	3	1	0	0	\$46,300	\$46,300	\$46,300	\$138,900
2024 Amendment - Filing annual audit in Inline XBRL – Initial cost	Reporting	3	1	\$1,600.00	\$533.33	\$0.00	\$533.33	\$533.33	\$1,600
2024 Amendment - Filing annual audit in Inline XBRL – Ongoing cost	Reporting	3	1	\$0.00	\$0.00	\$1,000.00	\$1,000.00	\$1,000.00	\$3,000
<b>TOTAL COST FOR ALL RESPONDENTS</b>									<b>\$143,500</b>

#### 14. Costs to Federal Government

Rule 17a-12, 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. Explanation of Changes in Burden

The most recent burden estimates, approved by OMB as part of a routine extension on November 20, 2024, were approximately 540 hours and \$138,900 per year. This current submission requests approval for information collections in the Commission's 2024 rulemaking. The current requested hourly burden of 586.50 hours represents an increase of approximately 46.5 hours. The current requested cost burden of \$143,500 represents an increase of \$4,600. The increase in burden is due to the revisions in the 2024 rule amendments. The burdens that were previously submitted to OMB in the November 2024 routine extension are not affected by the rule amendments and are not being changed in this supporting statement.

The Commission previously submitted a proposed revision in connection with the rulemaking on April 19, 2023. We note that the initial burden associated with the 2024 amendment to remove oath or affirmation notarization requirement of annual audited reports was

not included in the proposed revision. As explained above, the Commission adopted this amendment after considering public comments, and this rule change is expected to either have no ongoing burden or reduce the ongoing burden; however, the Commission is estimating some initial burdens for firms to become familiar with the change.

In addition, some of the burdens have changed since the 2023 proposal since the Commission has, after considering public comments, increased the burden and cost estimates for Inline XBRL tagging of the relevant documents.

The changes in hour and cost burdens are summarized in the table below.

Name of Information Collection	New Estimated Burden	Burden Previously Approved	Change in Burden	Reason for Change
2024 Amendment - Filing annual audit in Inline XBRL – Initial burden	7.00	0	7.00	New requirements of 2024 rule amendments
2024 Amendment - Filing annual audit in Inline XBRL – Ongoing burden	13.50	0	13.50	New requirements of 2024 rule amendments
2024 Amendment - Corrective and clarifying amendments to FOCUS Report Part II – Initial burden	5.00	0	5.00	New requirements of 2024 rule amendments
2024 Amendment - Amendments to FOCUS Report signature requirement – Initial burden	1.00	0	1.00	New requirements of 2024 rule amendments
2024 Amendment - Filing FOCUS Report on SEC eFOCUS – Initial burden	15.00	0	15.00	New requirements of 2024 rule amendments
2024 Amendment - Removal of oath or affirmation notarization requirement – Initial burden	5.00	0	5.00	New requirements of 2024 rule amendments
2024 Amendment - Filing annual audit in Inline XBRL – Initial cost	\$1,600	0	\$1,600	New requirements of 2024 rule amendments
2024 Amendment - Filing annual audit in Inline XBRL – Ongoing cost	\$3,000	0	\$3,000	New requirements of 2024 rule amendments

## **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. Collection of Information Employing Statistical Methods**

This collection does not involve statistical methods.