SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 17a-1
OMB Control Number: 3235-0208

A. Justification

1. Information Collection Necessity

The Securities Exchange Act of 1934, as amended ("Act"),[1] provides a framework for self-regulation under which various entities involved in the securities business, including national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board, have primary responsibility for regulating their members or participants. The role of the Securities and Exchange Commission ("Commission") in this framework is primarily one of oversight; the Act charges the Commission with the responsibility for assuring that each of these self-regulatory organizations ("SROs") complies with and advances the policies of the Act.

Rule 17a-1 under the Act[2] requires that every national securities exchange, national securities association, registered clearing agency, and the Municipal Securities Rulemaking Board, as SROs, keep on file for a period of not less than five years, the first two years in an easily accessible place, at least one copy of all documents that they make or receive in the course of their business as such and in the conduct of their self-regulatory activities, and that all such documents be made available for examination by the Commission and its representatives. Rule 17a-1 is important to the Commission's oversight responsibility with respect to SROs, in that it enables the Commission to review documents required to be kept by the SROs during reasonable periodic, special, or other examinations. Rule 17a-1 also permits the Commission's staff to temporarily remove such documents for reproduction. The Commission adopted Rule 17a-1 on May 17, 1974, pursuant to Section 17(a) of the Act[3] and Section 23(a) of the Act,[4] and was most recently amended on November 21, 1980.[5]

2. Information Collection Purpose and Use

The Commission uses the information provided pursuant to Rule 17a-1 in its SRO oversight program. The information provided pursuant to Rule 17a-1 allows the Commission to examine records kept by SROs, and to determine whether an SRO is operating in compliance with the Act and is carrying out its statutory oversight obligations under the Act. It would be extremely difficult for the Commission's staff to oversee SROs if the records were not maintained. In addition, the

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1 15 U.S.C. 78a et seq.

2 17 CFR 240.17a-1.

3 15 U.S.C. 78q(a).

4 15 U.S.C. 78(w)(a).

5 See Securities Exchange Act Release No. 17321 (Nov. 21, 1980), 45 FR 79426 (Dec. 1, 1980).

Commission uses the information collected under Rule 17a-1 to monitor the accuracy of the determinations made pursuant to Rule 3a55-1 under the Act[6] by national securities exchanges, including national securities exchanges that are notice-registered pursuant to Section 6(g) of the Act,[7] as to whether a security index is narrow-based.

3. Consideration Given to Information Technology

Rule 17a-1 is a recordkeeping rule. Records may be kept electronically, provided they remain accurate and accessible to Commission representatives.

4. Duplication

Not applicable. There is no duplication.

5. Effect on Small Entities

Not applicable. The SROs that are required to make and preserve the records to be available for examination under Rule 17a-1 are not small entities, as that term is defined in 17 CFR 240.0-10.

6. Consequences of Not Conducting Collection

The information required to be collected under Rule 17a-1 increases the ability of the Commission to ensure that each SRO is operating in compliance with the Act and is carrying out its statutory oversight obligations under the Act. If the information is not collected or is collected less frequently, the Commission would be limited in its ability to comply with its statutory obligations, provide for the protection of investors, and promote the maintenance of fair and orderly markets.

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

Under 5 CFR 1320.5(d)(2)(iv), an agency must demonstrate, in its submission for OMB clearance, that a collection of information that requires respondents to retain records (other than health, medical, government contract, grant-in-aid, or tax records) for more than three years, is necessary to satisfy statutory requirements or other substantial need. Rule 17a-1 requires respondents to keep on file for a period of not less than five years, the first two years in an easily accessible place, at least one copy of all documents that they make or receive in the course of their business as such and in the conduct of their self-regulatory activities.

Because the Exchange Act accords special privileges and responsibilities that the Exchange Act to SROs, the Commission believes that it is appropriate and necessary to require these entities to retain these records for at least five years to ensure that the SROs are conducting their businesses and exercising their self-regulatory powers in a manner that is consistent with the Exchange Act. For example, SROs have disciplinary powers over their members, which puts SROs in a different

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6 17 CFR 240.3a55-1.

7 15 U.S.C. 78f(g).

position than most persons that are required to retain records, and both SROs and their members therefore have an interest in the SROs' records being available should disclipinary disputes arise. Moreover, members of SROs who have been subject to disciplinary actions have the recourse of appealing to the Commission for review of such SRO actions. Therefore, SRO members, the SROs, and the Commission itself have an interest in SRO records being available long enough that the Commission may exercise meaningful review of the SROs' disciplinary actions under the Exchange Act.

Additionally, because the recordkeeping requirements independently imposed on notice-registered exchanges by the Commodity Futures Trading Commission ("CFTC") under CFTC Rule 1.31[8] are similar to those in Rule 17a-1, the Commission believes that it is appropriate for the recordkeeping requirements of Rule 17a-1 to apply to notice-registered exchanges as well as to SROs. Specifically, CFTC Rule 1.31 requires most regulatory records to be kept for at least 5 years,[9] electronic records must be kept readily accessible for at least 5 years, and paper records must be kept readily accessible for at least 2 years.[10] Therefore, subjecting notice-registered securities exchanges to Rule 17a-1 does not impose on these entities any obligations that differ substantially from those to which they are already subject under CFTC Rule 1.31.

8. Consultations Outside the Agency

The required Federal Register notice with a 60-day comment period soliciting comments on this collection of information was published. No public comments were received.

9. Payment or Gift

Not applicable. No payments or gifts are required to be made or are made to respondents.

10. Confidentiality

The Freedom of Information Act ("FOIA"), 5 U.S.C. 552, generally provides for the disclosure of information to the public. Rule 83 of the Commission's Rule of Information and Request, 17 C.F.R. 200.83, provides a procedure by which a person can make a written request that information submitted to the Commission not be disclosed under FOIA.

11. Sensitive Questions

The information collection collects elements of PII that is covered by the eD2.0 Recommind. Additionally, the collection is covered by the SORN SEC-03 Division of Trading and Market Records which provides notice to the public of how their information collected by Rule 17a-1 is maintained and disclosed by the SEC.

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8 17 CFR 1.31

9 17 CFR 1.31(b)(1) and 17 CFR 1.31(b)(3).

10 17 CFR 1.31(b)(4).

12. <u>Information Collection Burden</u>

a. SROs Required to Comply with Rule 17a-1

Commission staff believes that the average number of hours currently necessary for an SRO to comply with the requirements of Rule 17a-1 is 52 hours per year. Currently, there are 38 SROs required to comply with Rule 17a-1: 28 national securities exchanges registered under Section 6(a) of the Act,[11] 1 national securities association, 8 registered clearing agencies, and the Municipal Securities Rulemaking Board. The total number of hours required for the 38 SROs to comply with Rule 17a-1 is 1,976 annually, based on 52 hours per year and 38 SROs.

b. Notice-Registered National Securities Exchanges

In addition, the Commission staff anticipates that 3 national securities exchanges notice-registered pursuant to Section 6(g) of the Act will list or trade futures contracts on narrow-based security indexes and therefore will be required to preserve records of determinations made under Rule 3a55-1. The Commission staff anticipates that it will take each of these 3 notice-registered exchanges 1 hour annually to retain any documents made or received by it in determining whether an index is a narrow-based security index. The total number of hours required for the 3 notice-registered exchanges to comply with Rule 17a-1 is 3.

c. Total Burden

The total number of hours for all respondents to comply with Rule 17a-1 is 1,979 hours annually, based on 52 hours per year for the 38 SROs required to comply with the rule, plus an additional 3 hours per year for the 3 notice-registered national securities exchanges to preserve records of determinations made under Rule 3a55-1.

Summary of Hourly Burdens Per Year

Entity Type	Number of Respondents	Time Per Respondent (Hours)	Total Burden Per Entity Type (Hours)
SROs	38	52	1,976
Notice-Registered National Securities Exchanges	3	1	3
Total Aggregate Burden			***1,979***

13. <u>Costs to Respondents</u>

Not applicable. It is not anticipated that respondents will have or incur any capital and start-up costs, nor any additional operational or maintenance costs, to comply with the collection of information.

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11 15 U.S.C. 78f(a).

14. Costs to Federal Government

Not applicable. The government does not incur any costs as a result of Rule 17a-1, a recordkeeping rule.

15. Changes in Burden

There are changes in burden due to the change in the number of SROs that make up the respondents for each information collection. Of these SROs, the number of registered national securities exchanges registered pursuant to Section 6(a) of the Act has increased from 24 to 28. The number of registered clearing agencies has decreased from 9 to 8. The number of national securities exchanges notice-registered pursuant to Section 6(g) of the Act that will list or trade futures contracts on narrow-based security indexes has decreased from 4 to 3.

These changes account for the change in the hours burden estimate from 1,824 hours to 1,979 hours, as set forth in the chart below.

Name of Information Collection	**Annual Industry Burden Hours (previously approved)**	**Annual Industry Burden Hours (current extension)**	**Change in Burden Hours**	**Reason for Change**
SROs	1,820	1,976	156	Increase in the number of respondents
Notice-Registered National Securities Exchanges	4	3	(1)	Decrease in the number of respondents
Total	1,824	1,979	155	Change in the number of respondents

16. Information Collection Planned for Statistical Purposes

Not applicable. The information collection does not use a statistical survey methodology nor is it 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.