

**Supporting Statement
for the Paperwork Reduction Act
Information Collection Submission for
Rule 102 of Regulation M
(OMB Control No. 3235-0467)**

A. Justification

1. Necessity of Information Collection

a. Background

Congress granted broad rulemaking authority to the Commission in Sections 9(a), 10(b), and 15(c) under the Securities Exchange Act of 1934 (“Exchange Act”) to combat manipulative abuses in whatever form they may take. In exercising its authority, the Commission has focused on the market activities of certain persons participating in a securities offering and determined that certain types of securities offerings, called “distributions,” present special opportunities for manipulation that require specific regulatory attention. On December 20, 1996, the Commission adopted Regulation M, which consists of Rules 100 through 105 that govern the activities of underwriters, issuers, selling security holders, and others in connection with a securities offering. Regulation M, when compared to its predecessor rules, significantly eased regulatory burdens on offering participants by eliminating the trading restrictions for underwriters of actively traded securities; reducing the scope of coverage for other securities; reducing restrictions on issuer plans; providing a more flexible framework for stabilizing transactions; and deregulating rights offerings.

b. Overview of Rule 102

Rules 101 and 102 of Regulation M regulate bids for and purchases of offered securities and certain other covered securities. While Rule 101 covers underwriters, broker-dealers, selling group members, and their affiliated purchasers, Rule 102 covers issuers, selling security holders, and their affiliated purchasers. Rules 101 and 102 apply only during a “restricted period” that commences either one or five business days (depending on the average daily trading volume (“ADTV”) of the offered security) prior to the determination of the offering price and continues until such person’s completion of participation in the distribution. Rule 102 includes a limited exception for certain actively-traded reference securities.

c. Information Collection Requirements

Rule 102 requires covered persons to collect certain information to determine whether the rule applies, and if so, for what period of time. Regulation M incorporated many requirements of its predecessor’s rules, together with their information collection requirements. Regulation M also eased burdens (in comparison to the predecessor rules) by removing (by definition, exception, etc.) many categories of previously covered activities, securities, and persons.¹

¹ The record retention requirements for broker-dealer records are in Rule 17a-4 (OMB Control No. 3235-0279). Such records must be preserved for a period of not less than three years, the first two in an easily accessible place.

d. Exclusion of Actively-Traded Reference Securities

Rule 102 excepts reference securities with an ADTV value of \$1 million or more that are issued by an issuer whose common equity securities have a public float value of at least \$150 million. Under Regulation M, ADTV is calculated for the two full calendar months preceding the filing of the registration statement. To use this exception, the issuer must examine publicly available market data to calculate the ADTV.

e. Other Securities

The ADTV of other securities remaining subject to the restrictions of Rule 102 determines the length of the restricted period for the particular security.

f. Affiliated Purchasers

Rule 102 applies to any affiliated purchaser of an issuer or selling security holder.

2. Purpose and Use of the Information Collection

An issuer performs ADTV calculations to determine whether a reference security is excepted from Rule 102 or, if it is not, what the applicable restricted period is. This information is not used by the Commission.

Information barriers can serve to restrict the flow of non-public information that might inappropriately influence an affiliate's transactions in covered securities. Rule 100's definition of "affiliate" therefore excludes a distribution participant, issuer, or selling security holder that, among other things, satisfies certain information barrier requirements. The annual audit of the policies and procedures to prevent the flow of information between the issuer or selling security holder and its affiliates helps to assure that the policies are effective. The Commission only examines the policies and the annual audit in investigations of potential violations of the rule.

3. Consideration Given to Information Technology

Improvements in telecommunication and data processing technology reduce regulatory burdens that might otherwise result from Rule 102. The Commission is not aware of any technical or legal obstacles to reducing the burden through the use of improved information technology.

4. Duplication

The information required by each of the rules described herein does not duplicate that required by any other federal regulation. At the time Regulation M and related amendments were proposed, the Commission solicited and received comments without receiving any reference to federal regulations that may duplicate the requirements mandated by Regulation M. The

Commission continues to believe that there is no duplication of the information required by the rules described herein.

5. Effect on Small Entities

The information requirements of Rule 102 apply equally to all entities engaging in an offering, regardless of the entity's size. The Commission believes that the requirements of Rule 102 are not unduly burdensome on small entities.

6. Consequences of Not Conducting Collection

The information is collected as each transaction warrants and therefore there is no way to require less frequent collection without undermining the purposes of the rule.

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 C.F.R. 1320.5(d)(2).

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.

10. Confidentiality

No assurance of confidentiality is provided.

11. Sensitive Questions

The Information Collection does not collect information about individuals, therefore, a PIA, SORN, and PAS are not required.

12. Burden of Information Collection

a. Restricted Periods.

The Commission estimates it takes approximately one hour to calculate the ADTV and determine the applicable restricted period for each distribution. Thus, assuming for purposes of these estimates that all offerings meet the definition of "distribution" under Rule 100 of Regulation

M and that covered persons under Rule 102 are themselves making ADTV and restricted period calculations, the Commission estimates that it takes approximately 1,094 hours in the aggregate (1,094 offerings x 1 hour/offering) to calculate the ADTV and determine the applicable restricted period under Rule 102. This burden hour calculation applies whether the distribution is a firm commitment underwritten offering, a self-underwritten offering, or another type of offering.² The Commission estimates it takes approximately one hour to calculate the ADTV for each of these offerings. These collections are recordkeeping type of collections.

b. Information Barriers.

The Commission estimates that approximately 100 broker-dealers who are distribution participants in distributions determine whether they meet the definition of affiliate under Rule 100 and need to comply with the prohibitions Rule 102. The Commission estimates that the annual audit of the written policies and procedures concerning information barriers takes approximately 10 hours, and therefore approximately 1,000 hours (10 hours times 100 broker-dealers) are required by this definition. This collection is a recordkeeping type of collection.

c. Total Respondent Burden.

The Commission estimates that a total of 1,194 respondents would collect information pursuant to Rule 102 (1,094 total offerings, which includes firm commitment offerings, self-underwritten offerings, and all other types of distributions respondents + 100 respondents making affiliate determinations). The Commission estimates that the total reporting burden under Rule 102 is 2,094 hours (1,094 hours for total offerings + 1,000 hours to audit policies concerning affiliate information barriers). The average annual time burden per respondent is approximately 1.754 hours (2,094 hours / 1,194 respondents). All hours in this collection are the recordkeeping type of collection.

Type of Burden	Number of Respondents	Number of Annual Responses per Respondent	Average Annual Time Burden Per Response (Hours)	Aggregate Time Burden (Hours)
Recordkeeping	1,194	1	1.754	2,094

There are internal compliance costs associated with this rule. The Commission estimates that a typical employee of a broker-dealer charged to ensure compliance with Commission regulations receives compensation of \$164 per hour. The Commission uses occupational mean hourly wage data from the Occupational Employment and Wage Statistics (OEWS) program of the

² For 2025, there has been a change in the data methodology used to derive total number of offerings. The new estimate was derived from Global New Issues data from SDC Platinum available in LSEG Workspace. The data include issues with master deal type of Euro & Foreign Common Stock, Euro & Foreign Convertible Debt, Euro & Foreign Preferred Stock, US Common Stock, US Convertible Debt, US Convertible Preferred Stock, US Rule 144A Common Stock, US Rule 144A Convertible Debt, and US Rule 144A Convertible Preferred Stock by issuers whose domiciles are US, Bermuda, Cayman Islands, or Puerto Rico. The data include offerings that meet LSEG’s global standard inclusion criteria.

Bureau of Labor Statistics (BLS) for “Bookkeeping, Accounting, and Auditing Clerks,” which includes the previously used SIFMA designation of Compliance Clerks.³ Based on that estimate, the Commission estimates that the internal aggregate cost of compliance for all respondents to comply with Rule 102 is \$343,416 (\$164 per hour times 2,094 hours). The internal aggregate cost of compliance per respondent is approximately \$287.62 (\$343,416 / 1,194 respondents).

13. Costs to Respondents

It is not anticipated that respondents will have to incur any capital and startup costs to comply with the rule; nor is it anticipated that the respondents will have to incur any additional operational or maintenance costs (other than provided for in Item 12) to comply with the rule.

14. Costs to Federal Government

Rule 102 does not require that any information be submitted to the Federal government, and thus no costs to the Federal government are imposed by the rule’s requirement that broker-dealers disclose information to their customers.

15. Changes in Burden

The decrease in total burden hours is the result of a decrease in the total number of respondents from 1,361 previously to 1,194 in 2025.

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.

³ See *Occupational Employment and Wage Statistics*, U.S. BUREAU OF LABOR STATISTICS, <https://www.bls.gov/oes/>; see also *Standard Occupational Classification*, U.S. BUREAU OF LABOR STATISTICS, <https://www.bls.gov/soc/> (describing occupational classification system used by BLS); EXEC. OFF. OF THE PRESIDENT, OFF. OF MGMT. & BUDGET, NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (2022), available at https://www.census.gov/naics/reference_files_tools/2022_NAICS_Manual.pdf (describing the industry classification system used by BLS and other agencies). The mean hourly wage for each occupation is adjusted for changes in the seasonally adjusted employment cost index for private wages and salaries between the data reference period and when the data are released by BLS. See *Employment Cost Index*, U.S. BUREAU OF LABOR STATISTICS, <https://www.bls.gov/eci/>. The adjusted mean hourly wage is then multiplied by a factor that accounts for nonwage costs borne by employers, such as bonuses, benefits, and overhead. This factor is calculated as an average over the 10 most recently available years of data of the ratio of the Bureau of Economic Analysis’s annual gross output data for the NAICS number to total annual wages across all occupations for the NAICS number in the OEWS data.

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.