

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
Rule 17f-2(e)
OMB Control No. 3235-0031

A. JUSTIFICATION

1. Necessity of Information Collection

Between 1971 and 1974, the Senate Permanent Subcommittee of Investigations took testimony indicating that trafficking in stolen securities certificates was profitable for organized crime and that the failure to have available to the financial community a means of easily identifying security-risk personnel (i.e., persons with records of serious criminal offenses) was a contributing factor to that problem. Accordingly, in 1975, Congress added Section 17(f) to the Securities Exchange Act of 1934 (“Exchange Act”)¹ as part of the Securities Acts Amendments of 1975.² Specifically, Section 17(f)(2) requires, in pertinent part, that every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency (collectively, “covered entities”) require that each of their partners, directors, officers, and employees be fingerprinted and submit (or cause to be submitted) such fingerprints to the U.S. Attorney General for identification and appropriate processing.³

Section 17(f)(2) also authorizes the Commission, by rule, to exempt from the fingerprinting requirements of Section 17(f)(2) upon specified terms, conditions, and periods, any class of partners, directors, officers, and employees of a covered entity, if the Commission finds that such action is not inconsistent with the public interest or the protection of investors. And on March 16, 1976, the Commission adopted Rule 17f-2 pursuant to Section 17(f)(2) to provide for certain exemptions from the fingerprinting requirement of Section 17(f)(2).⁴ Under Rule 17f-2, a covered entity may claim an exemption from the fingerprint requirements of Rule 17f-2 provided they make and keep current a statement entitled “Notice Pursuant to Rule 17f-2” containing the information specified in Rule 17f-2(e)(1) to support their claim of exemption (“Notice”).⁵

Rule 17f-2(e)(2) requires covered entities to keep a copy of the Notice in an easily accessible place at the organization’s principal office and at the office employing the persons for whom exemptions are claimed, and to make the Notice available for inspection upon request by the Commission, appropriate regulatory agency (if not the Commission), or other designated examining authority. Notices prepared pursuant to Rule 17f-2(e) must be maintained for different lengths of time depending on the type of entity maintaining the Notice. Under Rule

¹ 15 U.S.C. 78q(f).

² Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

³ 15 U.S.C. § 78q(f)(2). Section 17(f)(2) was designed, in part, to: (1) identify security-risk personnel; (2) provide criminal record information to employers so they can make fully informed employment decisions; and (3) deter persons with a criminal record from seeking employment or association with covered entities.

⁴ 17 CFR § 240.17f-2; Exchange Act Release No. 12214 (Mar. 16, 1976), 41 FR 13594 (Mar. 31, 1976).

⁵ 17 CFR § 240.17f-2(e).

240.17a-1, every registered clearing agency must keep and preserve at least one copy of all documents made or received by it in the course of its business for a period of not less than five years. Under Rule 240.17a-4 certain members of national securities exchanges, brokers, and dealers must maintain the Notice during the life of their enterprise. Under Rule 240.17Ad-7, registered transfer agents must maintain the Notice in an easily accessible place. The recordkeeping requirement under Rule 17f-2(e) assists the Commission and other regulatory agencies with helping ensure compliance with Rule 17f-2.

2. Purpose and Use of Information Collection

The Commission uses the required information collection to assist it and other regulatory agencies with monitoring and reviewing the appropriateness of the covered entities' claims for exemptions from the fingerprinting requirement of Section 17(f)(2). Without Rule 17f-2(e), the Commission could not perform its duties as statutorily required.

3. Consideration Given to Information Technology

Rule 17f-2(e)(2) requires covered entities to keep a copy of the Notice in an easily accessible place at the organization's principal office and at the office employing the persons for whom exemptions are claimed and to make the Notice available upon request for inspection by the Commission, appropriate regulatory agency (if not the Commission), or other designated examining authority. Covered entities typically utilize computer systems to make and keep the required copies of such Notices.

4. Duplication

No other reporting requirement with respect to the information required to be reported under Rule 17f-2(e) currently exists.

5. Effect on Small Entities

No information is requested from small entities.

6. Consequences of Not Conducting Collection

If information was not required to be maintained by the covered entities, the Commission's ability to monitor covered entities' compliance would be weakened.

7. Inconsistencies with Guidelines in 5 CFR 1320.8(d)(2)

There are special circumstances that would require respondents to retain records other than health, medical, government contract, grant-in-aid, or tax records for more than three years. Rule 240.17f-2(e) applies to members of national securities exchanges, brokers, dealers, registered transfer agents, and registered clearing agencies that claim one or more of the exemptions in Rule 240.17f-2(a). Under Rule 240.17a-1, every registered clearing agency must keep and preserve at least one copy of all documents made or received by it in the course of its

business for a period of not less than five years. Under Rule 240.17a-4, certain members of national securities exchanges, brokers, and dealers must maintain the Notice during the life of their enterprise. Under Rule 240.17Ad-7(e)(2), registered transfer agents must maintain the Notice in an easily accessible place.

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

There are no payments or gifts to respondents.

10. Confidentiality

Not applicable; no assurance of confidentiality is provided by Rule 17f-2(e). The rule does not require respondents to submit personally identifiable information.

11. Sensitive Questions

Although the rule imposes a Paperwork Reduction Act (PRA) burden under Office of Management and Budget (OMB) control number 3235-0031, the SEC does not routinely collect any information from respondents. There is no form filed with the SEC or information otherwise provided to the SEC under the portion of the rule referenced by this Privacy Assessment Worksheet (PAW). Therefore, no Systems of Records Notice (SORN), Privacy Impact Assessment (PIA), or Privacy Act Statement (PAS) is required.

12. Information Collection Burden

Based on the Commission's experience with Rule 17f-2(e), we estimate that approximately 75 respondents will incur an average burden of 30 minutes per year to comply with this rule, which represents the time it takes for a staff person at a covered entity to properly document a claimed exemption from the fingerprinting requirements of Rule 17f-2 in the required Notice (0.4 hours, constituting a reporting type of burden) and to properly retain the Notice according to the entity's record retention policies and procedures (0.1 hours, constituting a recordkeeping type of burden). The estimated aggregate annual burden for all covered entities is approximately 38 hours (75 entities x 0.5 hours, rounded up).

Rule	Burden Type	Number of Respondents	Time Per Response (Hours)	Total Burden Per Burden Type (Hours)
Rule 17f-2(e)	Initial Reporting	75	0.4	30
Rule 17f-2(e)	Recordkeeping	75	0.1	7.5
Total Aggregate Burden				38 (37.5 rounded up)

13. Costs to Respondents

The work associated with the burden of 38 hours per year is typically performed by the covered entities' staff. There is no cost to respondents other than the internal wage or salary costs associated with generating and maintaining the documentation as described in Item 12, above.

14. Costs to Federal Government

Rule 17f-2(e) 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

There are no changes to the overall burden.

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.