

SUPPORTING STATEMENT

A. Justification

(1) Necessity for Information Collection

On March 16, 1976, the Commission adopted Rule 17f-2, implementing Section 17(f)(2) of the Securities Exchange Act of 1934 (the "Act"). Paragraph (a) of that Section and Rule 17f-2(a) thereunder provide that every member of a national securities exchange, broker, dealer, registered transfer agent and registered clearing agency ("covered entities") must require each of its partners, directors, officers, and employees to be fingerprinted and must submit or cause to be submitted such fingerprints to the designee of the Attorney General of the United States (the FBI) for appropriate identification and processing. Section 17(f)(2) of the Act was a response by Congress to the large number of securities thefts which occurred in the late 1960's. Testimony at the hearing conducted before the Senate permanent Subcommittee on Investigations between 1971 and 1974 indicated that the trafficking in stolen securities was a profitable area for organized crime and that the failure to have available to the financial community a means of easily identifying security-risk personnel was a contributing factor to that problem. The purpose of Rule 17f-2(a) is to facilitate the identification of security-risk personnel (*i.e.*, persons with criminal history records for serious offenses), to provide criminal history record information so that employers can make fully informed employment decisions, and to deter such persons from seeking employment or association with covered entities. Fingerprint cards submitted under Rule 17f-2(a) must be retained for a period of not less than three years after termination of the person's employment relationship with the organization.

(2) Purpose of and Consequences of Not Requiring the Information Collection

Fingerprint cards are provided to covered entities by the appropriate self-regulatory organization ("SRO"). The SRO then forwards the cards to the FBI. The FBI processes the cards and returns those cards with any criminal history to the SRO. The SRO, in turn, returns the cards, together with any criminal history record information, to the covered entity that initially submitted the fingerprint cards. Processed fingerprint cards and criminal histories (if any) are reviewed by the covered entity to identify security-risk personnel, to allow for fully-informed decisions regarding employment or association of persons with a covered entity, and to deter persons with criminal histories from seeking employment or association with a covered entity. Without paragraph (a) of Rule 17f-2, benefits of the Rule to the securities industry would be lost, and the only nationwide, uniform fingerprinting program for the securities industry would be rendered inoperable.

(3) Role of Improved Information Technology and Obstacles to Reducing Burden

Not applicable.

(4) Efforts to Identify Duplication

If, in connection with their present employment, a new hire in the securities industry has been fingerprinted pursuant to any other statute or regulation, those fingerprint cards may be submitted to the Attorney General for processing, and the processed cards may be maintained in accordance with this rule.

(5) Effect on Small Entities

The reporting requirement only applies to newly hired personnel in the securities industry. A small entity, therefore, would be affected by the Rule only when it hires new personnel.

(6) Consequences of Less Frequent Collection

The reporting requirement is on "an event" basis only.

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

The collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

(8) Consultations Outside the Agency

In 1983-84, we contacted Peter Shiner of the Commodity Futures Trading Commission ("CFTC") to discuss issues which eventually led to the Commission's recommending legislation to Congress. In 1984-85, we contacted Craig Thompson and Jay Cummings of the National Association of Securities Dealers ("NASD") to discuss generally the rule's requirements and exemptions, as well as processing issues. The NASD is the largest SRO processor of fingerprint cards in the securities industry. In 1983-84, we discussed with Bill Garvey and Brian Masterson of the FBI the same issues that led to the recommendation of legislation changes, and other issues including processing problems and fees.

Most recently, the staff contacted the New York Stock Exchange ("NYSE") and the NASD to estimate the number of fingerprint cards processed annually. The information obtained in these consultations is reflected in the estimates we have made in this submission.

(9) Payment of Gift to Respondents

Not applicable.

(10) Assurance of Confidentiality

No assurance of confidentiality is provided.

(11) Sensitive Questions

No questions of a sensitive nature are asked.

(12) Estimate of Respondent Reporting Burden

Approximately 10,000 covered entities are required to fingerprint their partners, directors, officers, or employees, unless otherwise exempt. The NYSE and NASD, through their fingerprinting plans, handle the majority of fingerprint cards submitted to the FBI. On the basis of their estimates, we have concluded that approximately 550,000 fingerprint cards are prepared annually, or an average of approximately 55 cards per respondent. We believe that one-half hour is required to complete a fingerprint card. Therefore, we estimate the total annual burden to be 275,000 hours, based upon past submissions.

(13) Estimate of Total Annualized Cost Burden

It is not anticipated that respondents will have to incur any capital and start up cost to comply with the rule, nor is it anticipated that the respondents will have to incur any additional operational or maintenance cost, other than provided for in item number 12, to comply with the rule. As stated above, we estimate the total annual burden to be 275,000 hours, and we estimate the average cost per hour to be approximately \$50.00. Therefore, the total cost of compliance for respondents is approximately \$13,750,000 per annum.

(14) Estimate of Cost to the Federal Government

Costs to the Federal Government in administering Rule 17f-2(a) are minimal. The staff presently receives no more than 2 or 3 inquiries per week. Inquiries can be responded to within a half hour. The staff estimates that approximately 65 hours of staff time per year will be devoted to answering oral inquiries at a cost of \$1,950 per year.

(15) Explanation of Changes in Burden

Burden on respondents is unchanged.

(16) Information Collection Planned for Statistical Purposes

Not applicable.

(17) Explanation as to why Expiration Date Will Not be Displayed

Not applicable.

(18) Exceptions to Certification

Not applicable.

B. Collection of Information Employing Statistical Methods

No statistical methods are employed in connection with the collections of information.