

**SUPPORTING STATEMENT**  
**for the Paperwork Reduction Act Information Collection Submission for**  
**Rule 17Ad-17**

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

As a result of the paperwork crisis that occurred in the late 1960's, during which the number of securities transactions exceeded the securities industry's capacity to process those transactions, Congress enacted the Securities Acts Amendments of 1975.<sup>1</sup> In order to establish a national system for the prompt and accurate clearance and settlement of securities transactions, Congress provided for a scheme of regulation with respect to the business of being a transfer agent. Those amendments to the Securities Exchange Act of 1934 ("Exchange Act") require transfer agents to meet minimum standards as established by the Commission in furtherance of the purposes of the Exchange Act and generally to protect investors.

Transfer agents play an integral role in the national system for the clearance and settlement of securities transactions. Transfer agents cancel certificates presented for transfer, issue new certificates to the transferee and record the change of record ownership of securities on the issuers' securityholder records. They also prepare, maintain, and certify securityholder records, disburse dividend and interest payments, and mail securityowner communications such as proxy materials and annual reports to shareholders.

To the extent transfer agents fail to perform their activities promptly, accurately, and safely, the entire clearance, settlement, and transfer process suffers. Substandard performance by transfer agents can affect the accuracy of an issuer's securityowner records and thereby interrupt the channels of communication between issuers and shareowners. Moreover, the absence of adequate internal accounting controls in the operation of transfer agents and procedures for the safeguarding of funds and securities in the possession or control of transfer agents can provide the opportunity for significant financial loss to securityholders, issuers, financial intermediaries, and securities depositories.

The Commission promulgated Rule 17Ad-17 in 1997 pursuant to authority under Section 17A of the Exchange Act<sup>2</sup> in order to enhance the accuracy of transfer agents' records. Under Rule 17Ad-17, transfer agents are required to exercise reasonable care to maintain the correct address of each securityholder in its master file. As a part of such reasonable care, transfer agents are required to make two searches for the correct address of lost securityholders<sup>3</sup> using an information database service without charge to the lost securityholders. The initial search must

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<sup>1</sup> Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

<sup>2</sup> Securities Exchange Act Release No. (Oct. 1997), 62 FR 52237 (Oct. 7, 2011).

<sup>3</sup> Rule 17Ad-17(b)(2) defines a lost securityholder as a securityholder to whom an item of correspondence that was sent to the securityholder at the address contained in the transfer agent's master securityholder file has been returned as undeliverable.

be carried out within three and twelve months after the securityholder becomes lost and the second search must be carried out between six and twelve months after the initial search.

Recently, Section 929W of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”)<sup>4</sup> added subsection (g), “Due Diligence for the Delivery of Dividends, Interest, and Other Valuable Property Rights” to Section 17A of the Exchange Act. Subsection (g) directs the Commission to revise Exchange Act Rule 17Ad-17, “Transfer Agents’ Obligation to Search for Lost Securityholders” to: extend to brokers and dealers the requirement of Rule 17Ad-17<sup>5</sup> to search for lost securityholders; add to Rule 17Ad-17 a requirement that “paying agents” notify “missing security holders” in writing that the paying agent has sent the missing security holder a check that has not yet been negotiated; add to Rule 17Ad-17 an exclusion for paying agents from the notification requirements when the value of the not yet negotiated check is less than \$25; and add to Rule 17Ad-17 a provision clarifying that the written notification requirements shall have no effect on State escheatment laws. Subsection (g) also requires the Commission to “adopt such rules, regulations, and orders necessary to implement this subsection no later than 1 year after the date of enactment of this subsection.” The Commission has published for public comment proposed amendments to Rule 17Ad-17 to implement the statutory requirements.<sup>6</sup>

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

The purpose of Rule 17Ad-17 is to reduce the number of lost securityholders by requiring transfer agents, brokers, dealers, and paying agents (collectively, “covered entities”) to conduct two database searches for correct addresses for the lost securityholders.

Rule 17Ad-17 requires a mandatory “collection of information” that requires covered entities to maintain records in order to comply with and to demonstrate compliance with the rule, which includes written procedures that describe the transfer agent’s, broker’s, dealer’s, or paying agent’s methodology for complying with the rule. Such records must be maintained for a period of not less than three years with the first year in an easily accessible place. The Commission reviews this information to test for compliance. The collection of information is necessary to enable covered entities, as custodians of records that determine the ownership of securities and the entitlement to corporate distributions, to reduce the number of lost and missing securityholders.

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

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<sup>4</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

<sup>5</sup> 17 CFR 240.17Ad-17.

<sup>6</sup> Securities Exchange Act Release No. 64099 (Mar. 18, 2011), 76 FR 16707 (Mar. 25 2011).

Covered entities have the option to deliver the names of the lost securityholders to third party database vendors (who use that information to conduct the search for the lost securityholders) by electronic, tape, or paper submissions.

#### **4. Duplication**

No other requirement exists with respect to the information required to be reported under Rule 17Ad-17.

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

According to Exchange Act Rule 0-10(c),<sup>7</sup> a broker or dealer is a small entity if it: (1) had total capital (net worth plus subordinated liabilities) of less than \$500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Section 240.17a-5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated liabilities) of less than \$500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section.<sup>8</sup> Of the 5,063 brokers and dealers registered with the Commission, approximately 879 are small brokers or dealers. We note that the proposed amendments to Rule 17Ad-17 would, as a practical matter, apply only to brokers and dealers that carry securities for customer accounts (i.e., clearing firms), which tend to be the larger broker and dealer firms. There are 503 clearing firms registered with the Commission, none of which qualifies as a small business. Accordingly, we do not expect small brokers or dealers to be affected by the amendments to Rule 17Ad-17.<sup>9</sup>

To the extent that some transfer agents covered by the rule are small entities, the rule impacts those entities. However, that impact is mitigated by the lower number of lost securityholders for which those firms should be responsible.

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

If the information is collected less frequently, investors are deprived of their assets for longer periods of time and the searches are less likely to result in a corrected address.

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

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.8(d).

#### **8. Consultations Outside the Agency**

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<sup>7</sup> 17 CFR 240.0-10(c).

<sup>8</sup> 17 CFR 240.0-10(i) discusses the meaning of “affiliated person” as referenced in Rule 0-10(c).

<sup>9</sup> See 17 CFR 240.0-10(a).

The Commission has issued a release soliciting comment on the new “collection of information” requirements and associated paperwork burdens. A copy of the release is attached. Comments on Commission releases are generally received from registrants, investors, and other market participants. In addition, the Commission and staff participate in ongoing dialogue with representatives of various market participants through public conferences, meetings and informal exchanges. Any comments received on this proposed rulemaking will be posted on the Commission’s public website, and made available through <http://www.sec.gov/rules/proposed.shtml>. The Commission will consider all comments received prior to publishing the final rule, and will explain in any adopting release how the final rule responds to such comments, in accordance with 5 C.F.R. 1320.11(f).

### **9. Payment or Gift**

No payment or gift was made to respondents.

### **10. Confidentiality**

Rule 17Ad-17 does not involve the collection of confidential information.

### **11. Sensitive Questions**

Rule 17Ad-17 does not ask questions of a sensitive nature.

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

The following is an estimate of the number and type of entities that are subject to Rule 17Ad-17.

- 5,063 broker-dealers registered with the Commission;
- 536 transfer agents registered with the Commission and federal banking regulators;
- 10,379 issuers that file reports with the Commission;
- 11,797 investment advisers registered with the Commission;
- 264 indenture trustees; and
- 896 custodians.

Thus, we estimate a total of approximately 28,931 potential respondents.

Based on discussions with participants in the securities industry, we are assuming for the purposes of proposed Rule 17Ad-17 that, on an annual basis, there will be approximately 325,000 searches by covered entities. This is composed of 250,000 searches by brokers and dealers, 25,000 searches by transfer agents, and 50,000 searches by the remaining entities subject to Rule 17Ad-17 (which we refer to broadly as “paying agents”).

#### **(a) Third Party Disclosure Burden**

Under paragraphs (a) - (c) of the proposed rule amendments, covered entities must collect the names and addresses of their lost securityholders, and the covered entities would submit this

information to information data bases. This burden represents an ongoing third party disclosure burden. The Commission anticipates that the hourly burden imposed by this aspect of the rule will be about two minutes per account per search. Based upon discussions with market participants, adding a corrected address in the event one is found would require approximately three minutes. Therefore, the burden per account would be no more than five minutes. Assuming 325,000 annual searches by covered entities for lost security holders, the hourly burden is approximately 27,083 hours (350,000 searches times 5 minutes per search, divided by 60 minutes).

### **(b) Recordkeeping Burden**

Proposed paragraph (d) of Rule 17Ad-17 would require covered entities to maintain records necessary to demonstrate their compliance with the rule including maintaining written procedures that describe their methodology for compliance. The records required by the proposed rule must be maintained for a period of not less than three years, with the first year in an easily accessible place. Based on discussions with participants in the securities industry, we believe that the annual recordkeeping function for records, which would be processed electronically, would require approximately one hour for every 500 missing securityholder accounts and every 500 lost securityholder accounts. For approximately 325,000 annual searches among the covered entities, the total recordkeeping time among covered entities is approximately 650 hours.

### **13. Costs to Respondents**

For purposes of this Supporting Statement, the primary cost incurred by covered entities to comply with Rule 17Ad-17 consists of a fee paid to third party data base providers that will search for the missing securityholders. Based on information provided by the industry, we estimate this fee to be approximately \$3 per search. Therefore, the total cost for all covered entities is approximately \$975,000 (325,000 annual searches multiplied by \$3) per year.

### **14. Costs to Federal Government**

Rule 17Ad-17 does not require covered entities to submit anything to the federal government. As previously stated, the Commission examines transfer agents, brokers, and dealers for their compliance with this rule. Since the cost to examine these entities consists solely of normal full-time employee labor costs, the cost to the federal government for purposes of this Supporting Statement is zero.

### **15. Changes in Burden**

The changes in burden result from a substantial increase in the number of entities subject to Rule 17Ad-17, which was caused by a change to federal law.<sup>10</sup>

### **16. Information Collection Planned for Statistical Purposes**

The Commission will not publish any internal analyses conducted with respect to the collections of information.

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<sup>10</sup> See note 4 above.

**17. Display of OMB Approval Date**

We are not requesting authorization to omit the expiration date for this information collection.

**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.