

## **PAPERWORK REDUCTION ACT SUBMISSION**

**Rules 17Ad-22 to 17Ad-26, Rule 17Aj-1, and Rule 3Cj-1**

**Supporting Statement**

### **A. JUSTIFICATION**

#### **1. Necessity of Information Collection**

##### **Legal and Administrative Requirements**

##### **i. Title VII of Dodd-Frank Act**

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”) added new provisions to the Securities Exchange Act of 1934 (“Exchange Act”) that require clearing agencies that clear security-based swaps (“security-based swap clearing agencies”) to register with the Securities Exchange Commission (“Commission”) and require the Commission to adopt rules with respect to security-based swap clearing agencies.

Specifically, new Section 17A(j) of the Exchange Act requires the Commission to adopt rules governing security-based swap clearing agencies. New Section 17A(i) of the Exchange Act also gives the Commission authority to promulgate rules that establish standards for security-based swap clearing agencies. Compliance with any such rules is a prerequisite to the registration of a clearing agency with the Commission and is also a condition to the maintenance of that security-based swap clearing agency’s continued registration.

##### **ii. Payment, Clearing, and Settlement Supervision Act of 2010**

Title VIII of the Dodd-Frank Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (“Clearing Supervision Act”), establishes an enhanced supervisory and risk control system for systemically important clearing agencies and other financial market utilities (“FMUs”). It provides that the Commission may prescribe regulations containing risk management standards, taking into consideration relevant international standards and existing prudential requirements, for any designated clearing entities it regulates. While no designations have been made with respect to whether any FMU is, or is likely to become, systemically important, the Commission believes it is beneficial to consider the requirements of the Clearing Supervision Act in its proposed rules for clearing agencies because the Clearing Supervision Act may apply to one or more clearing agencies in the future and the Commission preliminarily believes that its goals are consistent with the goals of Section 17A of the Exchange Act. Specifically, Congress recognized in the Clearing Supervision Act that the operation of multilateral payment, clearing or settlement activities may reduce risks for clearing participants and the broader financial system, while at the same time creating new risks that require multilateral payment, clearing or settlement activities to be well-designed and operated in a safe and sound manner. The Clearing Supervision Act is designed, in part, to provide a regulatory framework to help deal with such risk management issues, which is generally consistent with the Exchange Act requirement that clearing agencies be organized in a manner so as to facilitate

prompt and accurate clearance and settlement, safeguard securities and funds and protect investors.

### iii. Section 17A of Exchange Act

As noted above, in addition to the new authority provided to the Commission under Titles VII and VIII of the Dodd-Frank Act, the Commission has existing authority over clearing agencies under the Exchange Act. For example, entities are required to register with the Commission pursuant to Section 17A of the Exchange Act and Rule 17Ab2-1, prior to performing the functions of a clearing agency. Under this registration system, the Commission is not permitted to grant registration unless it determines that the rules and operations of the clearing agency meet the standards set forth in Section 17A. Specifically, Sections 17A(b)(3)(A)-(I) identify determinations that the Commission must make about the rules and structure of a clearing agency prior to granting registration. If a clearing agency is granted registration, the Commission oversees the clearing agency to facilitate compliance with the Exchange Act through the rule filing process for self-regulatory organizations (“SROs”) and through on-site examinations by Commission staff. Section 17A also gives the Commission authority to adopt rules for clearing agencies as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act and prohibits a registered clearing agency from engaging in any activity in contravention of these rules and regulations.

### **Proposed Rules Governing Clearing Agencies**

The Commission is proposing several new rules that would set standards for the operation and governance of clearing agencies. As noted above, the Dodd-Frank Act specifically gives the Commission authority to regulate security-based swaps and to adopt regulations addressing risk management standards for designated clearing entities that the Commission regulates. In addition to considering this specific directive in formulating the proposed rules, the Commission preliminarily believes that applying certain rules to all clearing agencies would promote financial stability, one of the goals of the Dodd-Frank Act, by facilitating prompt and accurate clearance and settlement of all securities transactions consistent with Section 17A of the Exchange Act while promoting the Dodd-Frank Act’s stated aims of accountability and transparency.

For a clearing agency to be registered under Section 17A of the Exchange Act, it must have the ability to facilitate the prompt and accurate clearance and settlement of transactions, safeguard investor funds and securities, remove impediments to and perfect the mechanism of a national clearance and settlement system, and to generally protect investors. Also, the clearing agency’s rules must provide adequate access to qualified participants, fair representation of shareholders and participants, equitable pricing, fair discipline of participants, and must not impose any undue burden on competition. The Commission is proposing Rules 17Ad-22 to 17Ad-26, 17Aj-1, and Rule 3Cj-1 (“Proposed Rules”) to require clearing agencies to establish, implement, maintain and enforce written policies and procedures designed to promote effective risk management procedures and controls as well as meet the statutory requirements under the Exchange Act on an ongoing basis.

The types of clearing agencies that are subject to the proposed rules can be divided into four different categories: (i) clearing agencies that offer central counterparty (“CCP”) services

for transactions in securities that are not security-based swaps, (ii) clearing agencies that offer CCP services for transactions in securities that are security-based swaps; (iii) clearing agencies that provide non-CCP services for transactions in securities that are not security-based swaps; and (iv) clearing agencies that provide non-CCP services for transactions in securities that are security-based swaps. Clearing agencies that offer only non-CCP services would only be subject to certain of the proposed rules, depending on whether they offer those services for transactions in securities that are not security-based swaps or that are security-based swaps.

There are a number of collections of information contained in the Proposed Rules. The information collected in these provisions is necessary to carry out the mandates of the Exchange Act, as amended by the Dodd-Frank Act.

The statutory basis for the Proposed Rules is as follows: Exchange Act Section 3C, 15 U.S.C. 78c-3; Exchange Act Section 17A, 15 U.S.C. 78q-1; and 12 U.S.C. 5464(a)(2).

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

### **i. Standards for Clearing Agencies**

#### **a. Measurement and Management of Credit Exposures**

Proposed Rule 17Ad-22(b)(1) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to measure its credit exposures to its participants at least once each day, and limit its exposures to potential losses from defaults by its participants in normal market conditions so that the operations of the clearing agency would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control. The purpose of the collection of information is to enable the clearing agency to monitor and limit its exposures to its participants.

#### **b. Margin Requirements**

Proposed Rule 17Ad-22(b)(2) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to: (i) use margin requirements to limit its credit exposures to participants in normal market conditions; (ii) use risk-based models and parameters to set margin requirements; and (iii) review the models and parameters at least monthly. The purpose of the collection of information is to enable the clearing agency to maintain sufficient collateral or margin.

#### **c. Financial Resources**

Proposed Rule 17Ad-22(b)(3) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the participant to which it has the largest exposure in extreme but plausible market conditions, and if the clearing agency provides CCP services for security-based swaps then a default by the two participants to which it has the largest exposures in extreme but plausible market conditions; provided that if a participant controls another participant or is under common

control with another participant, the affiliated participant and the participant shall be deemed to be a single participant. The purpose of the collection of information is to enable the clearing agency to satisfy all of its settlement obligations in the event of a participant default.

d. Model Validation

Proposed Rule 17Ad-22(b)(4) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for an annual model validation. The purpose of the collection of information is to enable the clearing agency to obtain an assessment of its margin model by a qualified, independent person.

e. Non-Dealer Access

Proposed Rule 17Ad-22(b)(5) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide the opportunity for a person that does not perform any dealer or security-based swap dealer services to obtain membership at the clearing agency to clear securities for itself or on behalf of other persons. The purpose of the collection of information is to enable more market participants to obtain indirect access to clearing agencies.

f. Portfolio Size and Transaction Volume Restrictions

Proposed Rule 17Ad-22(b)(6) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to have membership standards that do not require that participants maintain a portfolio of any minimum size or that participants maintain a minimum transaction volume. The purpose of the collection of information is to remove unnecessary barriers to participation in clearing agencies that provide CCP services.

g. Net Capital Restrictions

Proposed Rule 17Ad-22(b)(7) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide a person that maintains net capital equal to or greater than \$50 million with the ability to obtain membership at the clearing agency, with any net capital requirements being scalable so that they are proportional to the risks posed by the participant's activities to the clearing agency. The rule also permits a clearing agency to provide for a higher net capital requirement (i.e., higher than \$50 million) as a condition for membership at the clearing agency if the clearing agency demonstrates to the Commission that such a requirement is necessary to mitigate risks that could not otherwise be effectively managed by other measures, such as scalable limitations on the transactions that the participants may clear through the clearing agency, and the Commission approves the higher net capital requirement as part of a rule filing or clearing agency registration application. The purpose of the collection of information is to remove unnecessary barriers to clearing access by market participants with a net capital level above \$50 million, while at the same time facilitating sound risk management practices by clearing agencies by encouraging them to examine and articulate the benefits that

higher net capital requirements would create through having clearing agencies develop scalable membership standards that links the activities any participants could potentially engage in with the potential risks posed by the participant.

h. Record of Financial Resources

Proposed Rule 17Ad-22(c)(1) would require that each fiscal quarter (based on calculations made as of the last business day of the clearing agency's fiscal quarter), or at any time upon Commission request, a clearing agency that performs CCP services shall calculate and maintain a record of the financial resources necessary to meet the requirement in proposed Rule 17Ad-22c(3) and sufficient documentation to explain the methodology it uses to compute such financial resource requirement. The purpose of the collection of information is to enable the Commission to monitor the financial resources of clearing agencies that provide CCP services.

i. Annual Audited Financial Report

Proposed Rule 17Ad-22(c)(2) would require a clearing agency that provides CCP services to post on its website an annual audited financial report that must (i) be a complete set of financial statements of the clearing agency for the most recent two fiscal years and be prepared in accordance with U.S. GAAP, except that for a clearing agency that is a corporation or other organization incorporated or organized under the laws of any foreign country the financial statements may be prepared according to U.S. GAAP or IFRS; (ii) be audited in accordance with standards of the Public Company Accounting Oversight Board by a registered public accounting firm that is qualified and independent in accordance with rule 2-01 of Regulation S-X (17 CFR 210.2-01); and (iii) include a report of the registered public accounting firm that complies with paragraphs (a) through (d) of Rule 2-02 of Regulation S-X (17 CFR 210.2-02). The purpose of the collection of information is to enable the Commission to monitor the financial resources of clearing agencies that provide CCP services.

j. Transparent and Enforceable Rules and Procedures

Proposed Rule 17Ad-22(d)(1) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well founded, transparent, and enforceable legal framework for each aspect of their activities in all relevant jurisdictions. The purpose of the collection of information is to help ensure that clearing agencies' policies and procedures do not cause confusion or legal uncertainty among their participants because they are unclear, incomplete or conflict with other applicable laws or judicial precedent.

k. Participation Requirements

Proposed Rule 17Ad-22(d)(2) has three principle requirements related to establishing, implementing, maintaining and enforcing written policies and procedures for participation requirements. First, it would require clearing agencies to require participants to have sufficient financial resources and robust operational capacity to meet their obligations. The purpose of the collection of information is to enable clearing agencies to ensure that only persons with sufficient financial and operational capacity are direct participants. Second, clearing agencies would be required to have procedures in place to monitor that participation requirements are met on an

ongoing basis. The purpose of the collection of information is to help clearing agencies identify a participant experiencing financial difficulties before the participant fails to meet its settlement obligations. Third, a clearing agency's participation requirements would have to be objective, publicly disclosed, and permit fair and open access. The purpose of the collection of information is to ensure that all qualified persons can access a clearing agency's services on an equivalent basis.

l. Custody of Assets and Investment Risk

Proposed Rule 17Ad-22(d)(3) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to hold assets in a manner that minimizes risk of loss or delay in access to them, and to invest assets in instruments with minimal credit, market, and liquidity risks. The purpose of the collection of information is to enable clearing agencies to access their financial resources quickly so that they settle securities transactions on time and at the agreed upon terms.

m. Identification and Mitigation of Operational Risk

Proposed Rule 17Ad-22(d)(4): would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to: (i) identify sources of operational risk and minimize them through the development of appropriate systems, controls, and procedures; (ii) implement systems that are reliable, resilient and secure, and have adequate, scalable capacity; and (iii) have business continuity plans that allow for timely recovery of operations and fulfillment of a clearing agency's obligations. The purpose of the collection of information is to ensure that clearing agencies can maintain operations in the event of an operational problem, natural disaster or other similar event.

n. Money Settlement Risks

Proposed Rule 17Ad-22(d)(5) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to employ money settlement arrangements that eliminate or strictly limit the clearing agency's settlement bank risks, that is, its credit and liquidity risks from the use of banks to effect money settlements with its participants, and require funds transfers to the clearing agency to be final when effected. The purpose of the collection of information is to promote reliability in a clearing agency's settlement operations.

o. Cost-Effectiveness

Proposed Rule 17Ad-22(d)(6) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to be cost-effective in meeting the requirements of participants while maintaining safe and secure operations. The purpose of the collection of information is to help ensure that the services of clearing agencies do not become too expensive.

p. Links

Proposed Rule 17Ad-22(d)(7) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to evaluate the potential sources of risks that can arise when the clearing agency establishes links either cross-border or domestically to clear trades, and ensure that the risks are managed prudently on an ongoing basis. The purpose of the collection of information is to help ensure that clearing agencies adequately assess the risks associated with establishing a link with another clearing organization.

q. Governance

Proposed Rule 17Ad-22(d)(8) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to have governance arrangements that are clear and transparent to fulfill the public interest requirements in Section 17A of the Exchange Act applicable to clearing agencies; to support the objectives of owners and participants; and to promote the effectiveness of the clearing agency's risk management procedures. The purpose of the collection of information is to promote boards of directors that exercise sufficient oversight of the clearing agency's management and appropriately represent the interests of relevant stakeholders.

r. Information on Services

Proposed Rule 17Ad-22(d)(9) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide market participants with sufficient information for them to identify and evaluate the risks and costs associated with using their services. The purpose of the collection of information is to help market participants identify the risks and costs associated with using the clearing agency and would allow market participants to make informed decisions about the use of the clearing agency and take appropriate actions to mitigate their risks and costs associated with the use of the clearing agency.

s. Immobilization and Dematerialization of Stock Certificates

Proposed Rule 17Ad-22(d)(10) would require clearing agencies that perform central securities depository services to establish, implement, maintain and enforce written policies and procedures reasonably designed to immobilize or dematerialize securities certificates and transfer them by book entry to the greatest extent possible. The purpose of the collection of information is to enable clearing agencies to promote greater efficiency in the settlement of securities transactions and reduce risk by transferring securities by book entry movements.

t. Default Procedures

Proposed Rule 17Ad-22(d)(11) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to make key aspects of their default procedures publicly available and to establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default. The purpose of the collection of information is to foster a greater understanding by market participants of possible steps a

clearing agency may take when a participant defaults and possibly reduce the likelihood of market participants taking actions based on incorrect information.

u. Timing of Settlement Finality

Proposed Rule 17Ad-22(d)(12) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to ensure that final settlement occurs no later than the end of the settlement day and require that intraday or real-time finality be provided where necessary to reduce risks. The purpose of the proposed rule is to promote consistent standards of timing and reliability in the settlement process.

v. Delivery Versus Payment

Proposed Rule 17Ad-22(d)(13) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to eliminate principal risk by linking securities transfers to funds transfers in a way that achieves delivery versus payment. The purpose of the proposed rule is to eliminate principal risk in the transfer of securities and funds.

w. Risk Controls to Address Participant's Failure to Settle

Proposed Rule 17Ad-22(d)(14) would require clearing agencies that perform central securities depository services and extend intraday credit to participants to establish, implement, maintain and enforce written policies and procedures reasonably designed to institute risk controls, including collateral requirements and limits to cover the clearing agency's credit exposure to each participant fully, and ensure timely settlement in the event that the participant with the largest payment obligation is unable to settle. The purpose of the collection of information is to enable clearing agencies to satisfy their settlement obligations on time and for the agreed upon terms.

x. Identification and Management of Physical Delivery Risks

Proposed Rule 17Ad-22(d)(15) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to state to their participants the clearing agency's obligations with respect to physical deliveries and to identify and manage the risks that arise in connection with these obligations. The purpose of the collection of information is to provide the clearing agency's participants with sufficient information to evaluate the risks and costs associated with participation in the clearing agency.

ii. Dissemination of Pricing and Valuation Information by Security-Based Swap Clearing Agencies that Perform Central Counterparty Services

Proposed 17Aj-1 would require security-based swap clearing agencies that perform CCP services to make available to the public all end-of-day settlement prices and any other prices with respect to security-based swaps that it may use to calculate mark-to-market margin requirements for its participants and any other pricing or valuation information with respect to security-based swaps that it otherwise publishes or makes available to its participants. The

purpose of the collection of information is to help improve fairness, efficiency and market competition by providing market participants and, more generally, the public with a source of pricing data on security-based swaps that may otherwise be difficult to obtain.

iii. Clearing Agency Policies and Procedures to Protect the Confidentiality of Trading Information of Clearing Agency Participants

Proposed Rule 17Ad-23 would require each registered clearing agency to establish, implement, maintain and enforce written policies and procedures designed to protect the confidentiality of any and all transaction information that the clearing agency receives. Such transaction information may include, but is not limited to, trade data, position data, and any non-public personal information about a clearing agency member or participant or any of its members or participant's customers. The proposed rule also provides that the required policies and procedures shall include, but are not limited to: (a) limiting access to confidential trading information of clearing members to those employees of the clearing agency who are operating the system or responsible for its compliance with any other applicable laws or rules and (b) standards controlling employees and agents of the clearing agency trading for their personal benefit or the benefit of others. The purpose of the collection of information is to foster confidence in clearing agencies by market participants.

iv. Clearing Agency Procedures to Identify and Address Conflicts of Interest

Proposed Rule 17Ad-25 would require each registered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify and address existing or potential conflicts of interest and that are reasonably designed to minimize conflicts of interest in decision-making at the clearing agency. The purpose of the collection of information is to enable the Commission to examine and evaluate a clearing agency's efforts to minimize conflicts and help to ensure the transparent, equitable operation of the clearing agency.

v. Standards for Board or Board Committee Directors

Proposed Rule 17Ad-26 would require that a registered clearing agency establish certain governance standards applicable to its board or board committee members. The proposed collection of information is to help improve the effectiveness of a clearing agency's boards of directors.

vi. Designation of Chief Compliance Officer

Proposed Rule 3Cj-1 would require each registered clearing agency to designate a CCO who would establish and oversee the implementation of certain policies and procedures relating to non-compliance issues, as well as prepare, sign and submit an annual compliance report. The proposed collection of information should promote better compliance by clearing agencies with all applicable laws, regulations and policies.

**3. Consideration of Information Technology**

The Rules are drafted to utilize as much information technology as possible in collecting the information. Over time, the Commission expects that the burden will be reduced due to future technology enhancements. The Commission is not aware of any technical or legal obstacles to reducing the burden through the use of improved information technology.

**4. Duplication**

Section 712(a)(2) of the Dodd-Frank Act provides that, before commencing any rulemaking regarding, among other things, clearing agencies with regard to security-based swaps, the Commission must consult and coordinate with the Commodity Futures Trading Commission (“CFTC”) and other prudential regulators for the purposes of assuring regulatory consistency and comparability, to the extent possible. The Commission staff and the CFTC staff have consulted and coordinated with one another regarding their respective Commissions’ proposed rules regarding clearing agencies as mandated by the Dodd-Frank Act. The Commission staff has also consulted and coordinated with other prudential regulators.

**5. Effect on Small Entities**

The Proposed Rules would not have a significant economic impact on a substantial number of small entities.

**6. Consequences of Not Conducting Collection**

The Dodd-Frank Act enacted sweeping reforms in the financial system, including FMUs such as clearing agencies. It also charged the Commission with significant duties in carrying out these reforms. The consequences of not conducting collections of information or any less frequent collections of information pursuant to the Proposed Rules would significantly impair the Commission’s ability to carry out its statutory obligations under the Exchange Act, as amended by Titles VII and VIII of the Dodd-Frank Act.

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

The information collection is consistent with the general information collection guidelines imposed for public protection as set forth in 5 CFR 1320.5(d)(2),

**8. Consultations Outside the Agency**

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. The release was published in the Federal Register on March 16, 2011. Comments were due by April 29, 2011. The Commission received 25 comment letters. Comments were 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. 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). The comments received on this proposed rulemaking and are posted on the Commission's public website, and are available through <http://www.sec.gov/rules/proposed.shtml>. The Commission has not received any comments that specifically address the burdens of the information collection in the proposed rules. To the extent that commenters submitted comments about the costs of implementing the proposed rules or requested changes in proposed rules, those comments are set out below.

### Proposed Rules Generally

- One commenter noted that complex clearing organizations have many subsidiaries that engage in many different activities and are subject to regulation by many different regulators. Such organizations need the flexibility, to the extent possible, to structure their enterprise-wide programs in a way that works with each business and complies with all applicable laws and regulations.
  - The commenter argued that is particularly the case with respect to compliance programs because if the proposed rules are overly prescriptive, organizations such as DTCC may be subject to conflicting requirements and may be forced to fragment certain enterprise-wide programs to comply with such conflicting requirements, which could substantially increase costs and compliance risks within such organizations.
  - Further, if the proposed rules are overly prescriptive, they may prevent clearing agencies from being able to adapt quickly to changes in markets and global standards and that retaining that flexibility is extremely important.<sup>1</sup>
  - The commenter noted that many of the proposed rules require a clearing agency to establish, implement, maintain and enforce written policies and procedures and stated its belief that the precise form of these written policies and procedures should be a matter for the clearing agency to determine (so long as they are compliant) and may include service guides, operational arrangements, compliance procedures, link and cross-guaranty agreements and materials relating to internal operations and controls.<sup>2</sup>
- Another commenter requested that if the rules are adopted as proposed then the rules should not become effective until at least two years after their approval and that at a minimum compliance with any "two largest participants" standard that the SEC might adopt in proposed Rule 17Ad-22(b)(3) should be subject to a two year delayed implementation schedule.<sup>3</sup>
- The commenter stated that if the rules are adopted as proposed it will require extensive new policies and procedures, drafting, proposing and obtaining approval of necessary rules and rule changes, executing plans to raise additional financial resources conducting

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<sup>1</sup> See letter from Larry E. Thompson, General Counsel, The Depository Trust & Clearing Corporation, dated April 29, 2011 ("The DTCC (April) Letter") at 6-7.

<sup>2</sup> See DTCC (April) Letter at 7.

<sup>3</sup> See letter from William H. Navin, Executive Vice President, General Counsel, and Secretary, The Options Clearing Corporation, dated April 29, 2011 ("The OCC Letter") at 17.

extensive internal training, hiring of additional compliance personnel and many other tasks while also taking many other steps to comply with other aspects of the Dodd-Frank Act.<sup>4</sup>

- The commenter also noted that phase in periods would be appropriate because the rules would require that clearing agencies :
  - review their existing policies and procedures for compliance with the proposed rules;
  - develop and draft new policies and procedures to implement new requirements of the proposed rules;
  - prepare and obtain Commission approval for rule changes under Section 19(b) of the Exchange Act; and
  - in all likelihood, hire and train additional personnel.

A number of the proposed rules impose new operational requirements on clearing agencies that may require very significant changes in their operational arrangements.<sup>5</sup>

- One commenter strongly encouraged the SEC to avoid final action on its proposed rules before it has greater clarity on what clearinghouse regulations are ultimately adopted by European and U.K. regulators and what approaches to regulation are embraced by CPSS-IOSCO. This would allow the SEC to adopt rules that would not unknowingly force market activity into other jurisdictions by virtue of associated regulatory costs.<sup>6</sup>

#### Rule 17Ad-22

- One commenter supported the rule with certain clarifications and stated that proposed Rule 17Ad-22(b)(4) is overly prescriptive in two respects.<sup>7</sup>
  - First, the commenter expressed that the rule should not require the validation to be performed on an annual basis. Instead, the frequency should be left to the discretion of the clearing agency because it is in the best position to determine the appropriate timing.<sup>8</sup>
    - The commenter supported its contention that the proposed rule is overly prescriptive by stating that the requirement for an annual validation is unnecessary and may be overly burdensome in the absence of a material change in the model or a material change in the market environment that may affect the model.<sup>9</sup>
  - Second, the commenter argued that the clearing agency performing central counterparty services is in the best position to determine how to achieve the goal of performing a candid assessment that is free from outside influences and

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<sup>4</sup> See The OCC Letter at 17.

<sup>5</sup> See DTCC (April) Letter at 6.

<sup>6</sup> See The OCC Letter at 3.

<sup>7</sup> See DTCC (April) Letter at 13.

<sup>8</sup> See DTCC (April) at Letter 13.

<sup>9</sup> See DTCC (April) Letter at 13.

therefore the rule should not prescribe a particular method of achieving that outcome.<sup>10</sup>

- The commenter pointed out that with respect to achieving independence in a model validation review the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency stated in the recent Supervisory Guidance on Model Risk Management that independence "may be supported by separation of reporting lines" but that it "should be judged by actions and outcomes, since there may be additional ways to ensure objectivity and prevent bias."<sup>11</sup>
  - The commenter recommends that the SEC replace the aspect of the currently proposed rule text that addresses independence with the language already in the corresponding discussion section of the release, which states that "the person validating the clearing agency's model should be sufficiently free from outside influences so that he or she can be completely candid in their assessment of the model."<sup>12</sup>
  - In sum, the commenter recommended that the 17Ad-22(b)(4) rule text be recast as follows: "(b) A clearing agency that performs central counterparty services shall establish, implement, maintain and enforce written policies and procedures reasonably designed to: (4) Provide for periodic model validation consisting of evaluating the performance of the clearing agency's margin models and the related parameters and assumptions associated with such models by a qualified person who is sufficiently free from outside influences to perform a candid evaluation of such models."
    - The commenter did not believe that any additional changes are necessary to rule 17Ad-22(b)(4) and stated its belief that this approach is more consistent with Recommendation 4 from the CPSS-IOSCO Recommendations for Central Counterparties and with Principles for Financial Market Infrastructures Principle 6 because it does not prescribe a model validation frequency or a specific way to ensure the integrity of the validation process.<sup>13</sup>
- One commenter responded to the challenges of bringing independence to the model review process by explaining that if it undertook to detach model review entirely from model development it would be necessary to have two quantitative teams which presents the following issues:
    - Cost of staff;
    - Staffing problems since talented young people with the requisite quantitative skills tend to see review as non-creative;
    - Adversarial relations (a team dedicated solely to review may be seen to contribute only if it finds fault; and
    - Tensions that require senior management to resolve highly technical disputes between the development and review teams.<sup>14</sup>

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<sup>10</sup> See DTCC (April) Letter at 13.

<sup>11</sup> See DTCC (April) Letter at 14.

<sup>12</sup> See DTCC (April) Letter at 14.

<sup>13</sup> See DTCC (April) Letter at 15.

<sup>14</sup> See The OCC Letter at 11.

- Regarding proposed Rule 17Ad-22(d)(8), one commenter urged the SEC not to adopt hard and fast standards that will be costly to implement and maintain and that yield little or no apparent corresponding regulatory benefits.<sup>15</sup>
- One commenter expressed concern that proposed Rule 17Ad-22(d)(12) could be interpreted to provide intraday or real-time finality beyond what clearing agencies currently provide and beyond what they can provide without devoting resources to make significant changes in systems and processes.<sup>16</sup>
  - Therefore, the commenter suggested that the Commission should make clear in the final rule that the rule is not intended to impose an obligation on clearing agencies to provide intraday or real-time finality beyond what they currently provide or any obligation to build such additional capability unless and until there is industry and regulatory consensus on whether and what additional capability to build and how to allocate the cost.<sup>17</sup>

#### Rule 17Ad-24

- Two commenters acknowledged the SEC's jurisdiction to regulate compression service providers for security-based swaps because the service involves acting as an intermediary for the comparison of data.<sup>18</sup> However, the commenters suggested that requiring compression service providers to comply with full panoply of requirements for clearing agency oversight under Section 17A would impose significant and unwarranted regulatory costs on compression service providers.<sup>19</sup>
  - One commenter argued the SEC should consequently create different regulatory requirements for compression service providers and central counterparties to account for their different market functions.<sup>20</sup>
  - Another commenter argued the SEC should either provide a class exemption from clearing agency registration to compression service providers or a safe harbor from registration for services that reduce risks, are not novating or clearing

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<sup>15</sup> See letter from Craig S. Donohue, CME Group, dated April 29, 2011 (“CME Letter”) at 4.

<sup>16</sup> See DTCC (April) Letter at 25.

<sup>17</sup> See DTCC (April) Letter at 25.

<sup>18</sup> See letter from Kevin Gould, President, Markit™, dated April 29, 2011 (“Markit™ (April) Letter”) at 3; letter from Mark Beeston, Chief Executive Officer of Portfolio Risk Services, ICAP®, dated July 7, 2011 (“ICAP Letter”) at 5 – 6.

<sup>19</sup> See Markit (April) Letter at 3; ICAP Letter at 5 – 6; see also letter from Kevin Gould, President, Markit™, dated July 26, 2011 (“Markit™ (July) Letter”) at 3 (reiterating the position stated in its April letter that the increase in central clearing of security-based swaps is significantly reducing the role of compression services and their corresponding profitability).

<sup>20</sup> See Markit (April) Letter at 3.

security-based swap transactions and are not engaged in other clearing agency type functions.<sup>21</sup>

- One commenter responded to a question in the proposing release by stating that the cost of regulation of compression services will *not* be offset by the regulatory requirement to use compression services because the commenter expects demand for compression services to decrease.<sup>22</sup>
  - The commenter supported its position by explaining that industry participants often cooperate in a bidding process to identify a low cost service provider that is needed to meet regulatory and operational requirements. In light of the bidding process, it cannot be assumed that assuming such a role would provide financial benefits to the chosen service provider that would offset its costs of regulation.
  - The commenter also pointed out that the CFTC proposed certain requirements that are triggered when derivatives clearing organizations offer compression services but that this does not amount to a requirement and the SEC has not proposed to require compression either. Therefore, this commenter agreed with another commenter that neither agency has proposed a regulatory scheme that would require compression and could therefore compensate operating costs.<sup>23</sup>
  
- One commenter responded to a question in the proposing release by stating that the cost of regulation of matching and other related verification services would not be offset by a regulatory requirement to use those services.<sup>24</sup>
  - The commenter stated that no additional revenue should be expected to compensate the cost of registration because there aren't existing industry commitments today to use certain Independent Verification Services, the SEC proposed recently that it would not prescribe a specific means to confirm security-based swap transactions in its release on Trade Acknowledgment and Verification of Security-Based Swaps, and bifurcated requirements for swaps and security-based swaps would lead to higher legal, operational and technical costs.<sup>25</sup>
  
- One commenter stated that requiring clearing agency registration by providers of collateral management services for security-based swap transactions is inappropriate and would place unnecessary burdens on these entities that provide swap market participants useful back-office tools that are intended to improve the efficiency of collateral management systems in a manner that reduces systemic risk.<sup>26</sup> The commenter added that requiring collateral management services to register with the SEC could result in a

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<sup>21</sup> See ICAP Letter at 5 – 6.

<sup>22</sup> See Markit (April) Letter at 3.

<sup>23</sup> See Markit (April) Letter at 3; letter from Jeff Gooch, CEO, MarkitSERV™, dated April 29, 2011 (“MarkitSERV™ (April) Letter”) at 3.

<sup>24</sup> See MarkitSERV (April) Letter at 7.

<sup>25</sup> See MarkitSERV (April) Letter at 7.

<sup>26</sup> See letter from Christoffer Mohammar, General Counsel, TriOptima Group, dated April 29, 2011 (“TriOptima Letter”) at 1.

loss of the service altogether and therefore the loss of a significant risk management tool.<sup>27</sup>

- The commenter noted that two aspects of collateral management services for security-based swaps are to reconcile swap portfolios to help assess and mitigate credit risk and identify discrepancies in agreed upon amounts of collateral. The commenter stated its belief that these services alone would not constitute a clearing agency function as it is described in the proposing release.<sup>28</sup>
- The commenter acknowledged that collateral management services also sometimes allow participants to provide the collateral management service provider with custody bank details so that when the services generate amounts to be transferred to certain beneficiaries, and the participant has agreed to the transfer, an automated instruction can be sent to transfer those agreed-upon amounts to intended beneficiaries. The commenter urged the SEC that it would be a peculiar regulatory result if collateral management providers had to register because they offer the convenient service of generating a payment instruction to a user to be forwarded to such user's bank to make a necessary transfer. In the absence of that service, the result would be that the collateral management provider would give the results to individual users who would then have to generate the payment instruction themselves.<sup>29</sup>

#### Rule 17Ad-24

- One commenter requested that the scope of the annual compliance reported limited to compliance with the requirements of the Securities Exchange Act and the rules and regulations thereunder rather than the federal securities laws.<sup>30</sup>
- Two commenters requested that the proposed rule be revised to require a description only of the compliance policies and procedures of the clearing agency rather than each policy and procedure of the clearing agency.<sup>31</sup>
  - One of the commenters argued that this limitation is appropriate because it is not appropriate to require the CCO to have principal responsibility for reviewing business matters like service levels, cost, pricing, and operational reliability for purposes of preventing anticompetitive behavior.<sup>32</sup>
  - The commenter did state however that the CCO should be involved in remedying any noncompliance issues discovered in these areas.<sup>33</sup>
  - The other commenter argued that not limiting the report to compliance policies and procedures of the clearing agency would result in a report containing

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<sup>27</sup> See TriOptima Letter at 3, 5.

<sup>28</sup> See TriOptima Letter at 4.

<sup>29</sup> See TriOptima Letter at 4.

<sup>30</sup> See DTCC (April) Letter at 35.

<sup>31</sup> See DTCC (April) Letter at 35.

<sup>32</sup> See DTCC (April) Letter at 35.

<sup>33</sup> See DTCC (April) Letter at 35.

voluminous descriptive material that is of little use to the clearing agency or the SEC.<sup>34</sup>

- One commenter suggested that if Rule 3Cj-1 is adopted as proposed, it should be subject to a significant phase in period to allow adequate time for clearing agencies to comply. The commenter stated that if its suggested changes to the proposed rule are not accepted, it would require clearing agencies to conduct complete re-evaluation of the roles and responsibilities of the CCO and the resources needed by the CCO to perform the duties set forth in the proposed rule and may require clearing agencies to restructure their entire compliance function to comply with the rule.<sup>35</sup>

## **9. Payment or Gift**

Not applicable.

## **10. Confidentiality**

### **i. Standards for Clearing Agencies**

#### **a. Measurement and Management of Credit Exposures**

The collection of information relating to the measurement and management of credit exposures under proposed Rule 17Ad-22(b)(1) would be provided to the Commission staff, but not subject to public availability.

#### **b. Margin Requirements**

The collection of information relating to margin requirements under proposed Rule 17Ad-22(b)(2) would be provided to the Commission staff but not subject to public availability.

#### **c. Financial Resources**

The collection of information relating to financial resources under proposed Rule 17Ad-22(b)(3) would be provided to the Commission staff but not subject to public availability.

#### **d. Model Validation**

The collection of information relating to conducting an annual model validation under proposed Rule 17Ad-22(b)(4) would be provided to the Commission staff but not subject to public availability.

#### **e. Non-Dealer Access**

The collection of information relating to non-dealer access under proposed Rule 17Ad-22(b)(5) would be provided to the Commission staff but not subject to public availability.

<sup>34</sup> See The OCC Letter at 5.

<sup>35</sup> See DTCC (April) Letter at 41.

f. Net Capital Requirements

The collection of information relating to the procedures for net capital requirements under proposed Rule 17Ad-22(b)(7) would be provided to the Commission staff but not subject to public availability.

g. Record of Financial Resources

The collection of information relating to the calculation and maintenance by a clearing agency that provides CCP services of a quarterly report describing the financial resources necessary to meet the requirements of proposed Rule 17Ad-22(b)(3) would be provided to the Commission staff under proposed Rule 17Ad-22(c)(1), but would not be subject to public availability.

h. Annual Audited Financial Report

The collection of information relating to the annual audited financial report published to the clearing agency's website under proposed Rule 17Ad-22(c)(2) would be subject to public availability.

i. Transparent and Enforceable Rules and Procedures

The collection of information relating to a clearing agency's well founded, transparent and enforceable legal framework under proposed Rule 17Ad-22(d)(1) would be provided to the Commission staff, but not subject to public availability.

j. Participation Requirements

The collection of information relating to the procedures for monitoring and publicly disseminating the participation requirements under proposed Rule 17Ad-22(d)(2) would be provided to the Commission staff and would be subject to public availability.

k. Custody of Assets and Investment Risk

The collection of information relating minimizing custody and investment risk under proposed Rule 17Ad-22(d)(3) would be provided to the Commission staff, but not subject to public availability.

l. Identification and Mitigation of Operational Risk

The collection of information relating to identifying and minimizing operational risk under proposed Rule 17Ad-22(d)(4) would be provided to the Commission staff, but not subject to public availability.

m. Money Settlement Risks

The collection of information relating to the procedures for money settlement arrangements under proposed Rule 17Ad-22(d)(5) would be provided to the Commission staff, but not subject to public availability.

n. Cost-Effectiveness

The collection of information relating to being cost-effectiveness under proposed Rule 17Ad-22(d)(6) would be provided to the Commission staff, but not subject to public availability.

o. Links

The collection of information relating to evaluating potential sources of risk in links arrangements under proposed Rule 17Ad-22(d)(7) would be provided to the Commission staff, but not subject to public availability.

p. Governance

The collection of information relating to a clearing agency's governance arrangements under proposed Rule 17Ad-22(d)(8) would be provided to the Commission staff, but not subject to public availability.

q. Information on Services

The collection of information relating to the provision of sufficient information to market participants under proposed Rule 17Ad-22(d)(9) would be provided to the Commission staff and market participants, but not subject to public availability.

r. Immobilization and Dematerialization of Stock Certificates

The collection of information relating to the procedures for immobilizing and dematerializing stock certificates under proposed Rule 17Ad-22(d)(10) would be provided to the Commission staff, but not subject to public availability.

s. Default Procedures

The collection of information relating to the establishment and maintenance of default procedures under proposed Rule 17Ad-22(d)(11) would be subject to public availability.

t. Risk Controls to Address Participants' Failure to Settle

The collection of information relating to risk controls to address participants' failure to settle under proposed Rule 17Ad-22(d)(14) would be provided to the Commission staff, but not subject to public availability.

u. Identification and Management of Physical Delivery Risks

The collection of information relating to the statement and management of physical delivery risk under proposed Rule 17Ad-22(d)(15) would be provided to the Commission staff, but not subject to public availability.

- ii. Dissemination of Pricing and Valuation Information by Security-Based Swap Clearing Agencies that Perform Central Counterparty Services

The collection of information relating to the dissemination of pricing and valuation information under proposed Rule 17Aj-1 would be subject to public availability.

- iii. Clearing Agency Policies and Procedures to Protect the Confidentiality of Trading Information of Clearing Agency Participants

The collection of information pertaining to the establishment, maintenance and enforcement of written policies and procedures pertaining to the confidentiality of trading information under proposed Rule 17Ad-23 would be provided to the Commission staff and would be subject to public availability.

- iv. Clearing Agency Procedures to Identify and Address Conflicts of Interest

The collection of information relating to the establishment, implementation, maintenance and enforcement of written policies and procedures reasonably designed to identify and address conflicts of interest under proposed Rule 17Ad-25 would be provided to the Commission staff and would be subject to public availability.

- v. Standards for Board or Board Committee Directors

The collection of information relating to board or board committee directors governance standards under proposed Rule 17Ad-26 would be provided to the Commission staff and would be subject to public availability.

- vi. Designation of Chief Compliance Officer

The collection of information relating to the CCO under proposed Rule 3Cj-1 would be provided to the Commission staff and would be subject to public availability.

## **11. Sensitive Questions**

Not applicable. There are no questions of a sensitive nature asked.

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

- i. Number of Respondents

Standards in Proposed Rule 17Ad-22(b) that Impose a PRA Burden

The standards in proposed Rule 17Ad-22(b) that the Commission preliminarily believes impose a PRA burden are 17Ad-22(b)(1), (2), (3), (4), (5), (6) and (7). The requirements in proposed Rules 17Ad-22(b)(1), (2), (3), (4), (5), (6) and (7) would apply to all clearing agencies that perform central counterparty services. There are currently four clearing agencies authorized to provide CCP services for security-based swap transactions pursuant to the CDS Clearing Exemption Orders. The Commission estimates, based on staff discussions with industry representatives, that there could conceivably be one or two more entities that clear security-based swaps in the future. Thus, the Commission estimates that four to six clearing agencies may seek to clear security-based swaps. The Commission is using the higher estimate of six security-based swap clearing agencies for this PRA analysis. There are also eleven additional clearing agencies currently registered with the Commission, of which only three are currently performing central counterparty services. Thus, for these provisions, the Commission estimates that there would be nine respondents.

#### Standards in Proposed Rule 17Ad-22(c) that Impose a PRA Burden

The standards in proposed Rule 17Ad-22(c) that the Commission preliminarily believes impose a PRA burden are 17Ad-22(c)(1) and (2). The requirements of proposed Rule 17Ad-22(c)(1) would apply to all clearing agencies that perform CCP services. As noted above, there are currently four clearing agencies authorized to provide CCP services for security-based swap transactions pursuant to the CDS Clearing Exemption Orders, and there could conceivably be one or two more entities that clear security-based swaps in the future. Thus, the Commission estimates that four to six clearing agencies may seek to clear security-based swaps. The Commission is using the higher estimate of six respondent clearing agencies for this PRA analysis. There are also eleven additional clearing agencies currently registered with the Commission, of which only three are currently performing central counterparty services. Thus, for propose Rule 17Ad-22(c)(1), the Commission estimates that there would be nine respondents.

The requirements of proposed Rule 17Ad-22(c)(2) would apply to all clearing agencies. Therefore, the Commission preliminarily believes that these PRA burdens would be imposed on all clearing agencies registered with the Commission. As noted above, there are currently four clearing agencies authorized to clear security-based swaps pursuant to the CDS Clearing Exemption Orders. The Commission estimates, based on staff discussions with industry representatives, that there could conceivably be one or two more entities that clear security-based swaps in the future. Thus, the Commission estimates that four to six clearing agencies may seek to clear security-based swaps. The Commission is using the higher estimate of six for the PRA analysis. There are also eleven additional clearing agencies currently registered with the Commission. Thus, for proposed Rule 17Ad-22(c)(2), the Commission estimates that there would be seventeen respondents.

#### Standards in Proposed Rule 17Ad-22(d) that Impose a PRA Burden

In proposed Rule 17Ad-22(d), the requirements that the Commission preliminarily believes impose a PRA burden are 17Ad-22(d)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15). The Commission preliminarily believes that these PRA burdens would be imposed on all clearing agencies registered with the Commission. As noted above, there are currently four clearing agencies authorized to clear security-based swaps pursuant to the CDS Clearing Exemption Orders. The Commission estimates based on staff discussions with industry

representatives, that there could conceivably be one or two more entities that clear security-based swaps in the future. Thus, the Commission estimates that four to six clearing agencies may seek to clear security-based swaps. The Commission is using the higher estimate of six for the PRA analysis. There are also eleven additional clearing agencies currently registered with the Commission. Thus, for these provisions, the Commission estimates that there would be seventeen respondents.

#### Dissemination of Pricing and Valuation Information by Security-Based Swap Clearing Agencies that Perform Central Counterparty Services

The requirements of proposed Rule 17Aj-1 to disseminate pricing and valuation information with respect to security-based swaps would apply to every security-based swap clearing agency that performs CCP services. As noted above, there are currently four entities providing CCP services for security-based swaps that are authorized to do so pursuant to the CDS Clearing Exemption Orders, and there could conceivably be one or two more entities that clear security-based swaps in the future. Thus, the Commission estimates that four to six clearing agencies that provide CCP services may seek to clear security-based swaps. The Commission is using the higher estimate of six respondent clearing agencies for this PRA analysis.

#### Clearing Agency Policies and Procedures to Protect the Confidentiality of Trading Information of Clearing Agency Participants

The safeguards and procedures applicable to the confidential treatment of trading information received by a clearing agency under proposed Rule 17Ad-23 would apply to all clearing agencies registered with the Commission. As noted above, there are currently four clearing agencies authorized to clear security-based swaps pursuant to the CDS Clearing Exemption Orders, and there could conceivably be one or two more entities that clear security-based swaps in the future. Thus, the Commission estimates that four to six clearing agencies may seek to clear security-based swaps. The Commission is using the higher estimate of six respondent clearing agencies for this PRA analysis. There are also eleven additional clearing agencies currently registered with the Commission. Thus, for this provision, the Commission estimates that there would be seventeen respondents.

#### Clearing Agency Procedures to Identify and Address Conflicts of Interest

The conflicts of interest policies and procedures to be adopted by clearing agencies pursuant to proposed Rule 17Ad-25 would apply to all clearing agencies registered with the Commission. As noted above, there are currently four clearing agencies authorized to clear security-based swaps pursuant to the CDS Clearing Exemption Orders, and that there could conceivably be one or two more entities that clear security-based swaps in the future. Thus, the Commission estimates that four to six clearing agencies may seek to clear security-based swaps. The Commission is using the higher estimate of six respondent clearing agencies for this PRA analysis. There are also eleven additional clearing agencies currently registered with the Commission. Thus, for this provision, the Commission estimates that there would be seventeen respondents.

### Standards for Board or Board Committee Directors

The board and board committee directors' governance standards to be established by clearing agencies pursuant to proposed Rule 17Ad-26 would apply to all clearing agencies registered with the Commission. As noted above, there are currently four clearing agencies authorized to clear security-based swaps pursuant to the CDS Clearing Exemption Orders, and there could conceivably be one or two more entities that clear security-based swaps in the future. Thus, the Commission estimates that four to six clearing agencies may seek to clear security-based swaps. The Commission is using the higher estimate of six respondent clearing agencies for this PRA analysis. There are also eleven additional clearing agencies currently registered with the Commission. Thus, for this provision, the Commission estimates that there would be seventeen respondents.

### Designation of Chief Compliance Officer

The provisions regarding CCOs of proposed Rule 3Cj-1 would apply to all clearing agencies registered with the Commission. As noted above, there are currently four clearing agencies authorized to clear security-based swaps pursuant to the CDS Clearing Exemption Orders, and there could conceivably be one or two more entities that clear security-based swaps in the future. Thus, the Commission estimates that four to six clearing agencies may seek to clear security-based swaps. The Commission is using the higher estimate of six respondent clearing agencies for this PRA analysis. There are also eleven additional clearing agencies currently registered with the Commission. Thus, for this provision, the Commission estimates that there would be seventeen respondents.

## ii. Source of Estimates, Annual Hour Burden, and Explanation of Estimates

### Standards for Clearing Agencies Reporting Requirements

#### a. Measurement and Management of Credit Exposures

Proposed Rule 17Ad-22(b)(1) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to measure its credit exposures to its participants at least once a day and limit its exposures to potential losses from defaults by its participants in normal market conditions so that the operations of the clearing agency would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based swap data repositories ("SDRs"). Specifically, Rule 611 of Regulation NMS, referred to as the "Order Protection Rule", requires trading centers to establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trade-throughs on that trading center of protected quotations in NMS stocks, unless an exception applies. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes the requirement for policies and procedures to be created and maintained by SRO and non-SRO

trading centers in Rule 611 of Regulation NMS is similar in nature and scope to this requirement for clearing agencies to create policies and procedures.

Accordingly, the Commission believes that the burdens imposed on respondents to create policies and procedures in both contexts would be roughly equivalent. In its adoption of the final Order Protection Rule, the Commission estimated the approximate hourly burdens imposed on trading centers that are SROs and on trading centers that are not SROs to establish written policies and procedures that are reasonably designed to prevent execution of trade-throughs. For SRO trading centers, the Commission estimated that creating written policies and procedures would require approximately 270 hours and require efforts from the various skill sets of the clearing agency's legal, compliance, information technology and business operations personnel. For non-SRO trading centers, the Commission estimated an approximate hourly burden of 210 hours to meet the same requirement. This difference between the hourly burden imposed on non-SRO trading centers and SRO trading centers is primarily due to a slightly lower expectation for the hourly burden imposed on the legal and compliance staff at a non-SRO trading center.

The Commission preliminarily believes that this hourly burden estimate of 210 hours for non-SRO trading centers under Regulation NMS is an appropriate estimate for the burden that would be imposed on clearing agencies to create policies and procedures because, as discussed below, recent assessments of the registered U.S. clearing agencies support the conclusion that clearing agencies and their rule books generally meet or exceed analogous standards of operation and governance to those standards within proposed Rule 17Ad-22. Therefore, those findings and the Commission's experience in oversight of clearing agencies support a preliminary view that the requirements in the rules for clearing agencies proposed by the Commission would in many cases impose a burden on legal and compliance personnel at clearing agencies that would involve adjustments to a registered clearing agency's rule book and its policies and procedures rather than creation of entirely separate policies and procedures to support entirely new operations and practices.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(b)(1) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>36</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 1,890 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 9 respondent clearing agencies = 1,890 hours. For purposes of Form 83-I, this burden will be amortized over three years at 630 hours per year (1,890 hours over 3 years).

Clearing agencies that provide CCP services would be required to measure their credit exposures as required by proposed Rule 17Ad-22(b)(1) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring custody and investment standards would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the

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<sup>36</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>37</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 540 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 9 respondent clearing agencies = 540 hours for all respondent clearing agencies. Including annualized one-time burdens of 630 hours per year and recurring burdens of 540 hours per year, the total annual burden for all 9 respondents is 1,170 hours per year (9 respondents x 130 hours per year = 1,170).

b. Margin Requirements

Proposed Rule 17Ad-22(b)(2) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants in normal market conditions and use risk-based models and parameters to set margin requirements and review them at least monthly. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(b)(2) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>38</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 1,890 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 9 respondent clearing agencies = 1,890 hours. For purposes of Form 83-I, this burden will be amortized over three years at 630 hours per year (1,890 hours over 3 years).

Clearing agencies would be required to administer their custody and investment standards required by proposed Rule 17Ad-22(b)(2) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring custody and investment standards would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate

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<sup>37</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>38</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

annual burden of 60 hours<sup>39</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 540 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 9 respondent clearing agencies = 540 hours for all respondent clearing agencies. Including annualized one-time burdens of 630 hours per year and recurring burdens of 540 hours per year, the total annual burden for all 9 respondents is 1,170 hours per year (9 respondents x 130 hours per year = 1,170).

c. Financial Resources

Proposed Rule 17Ad-22(b)(3) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the participant to which it has the largest exposure in extreme but plausible market conditions, and if the clearing agency provides CCP services for security-based swaps then a default by the two participants to which it has the largest exposures in extreme but plausible market conditions; provided that if a participant controls another participant or is under common control with another participant, the affiliated participant and the participant shall be deemed to be a single participant. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(b)(3) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>40</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 1,890 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 9 respondent clearing agencies = 1,890 hours. For purposes of Form 83-I, this burden will be amortized over three years at 630 hours per year (1,890 hours over 3 years).

Clearing agencies would be required to administer their financial resources standards required by proposed Rule 17Ad-22(b)(3) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for financial resources standards would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in

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<sup>39</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>40</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>41</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 540 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 9 respondent clearing agencies = 540 hours for all respondent clearing agencies. Including annualized one-time burdens of 630 hours per year and recurring burdens of 540 hours per year, the total annual burden for all 9 respondents is 1,170 hours per year (9 respondents x 130 hours per year = 1,170).

d. Model Validation

As discussed above, proposed Rule 17Ad-22(b)(4) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for an annual model validation. The Commission preliminarily believes this requirement would help to ensure that a clearing agency's margin model remains effective in determining the appropriate margin level. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based swap data repositories. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(b)(4) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>42</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 1,890 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 9 respondent clearing agencies = 1,890 hours. For purposes of Form 83-I, this burden will be amortized over three years at 630 hours per year (1,890 hours over 3 years).

Clearing agencies would be required to administer their model validation standards required by proposed Rule 17Ad-22(b)(4) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for model validation standards would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that

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<sup>41</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>42</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>43</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 540 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 9 respondent clearing agencies = 540 hours for all respondent clearing agencies. Including annualized one-time burdens of 630 hours per year and recurring burdens of 540 hours per year, the total annual burden for all 9 respondents is 1,170 hours per year (9 respondents x 130 hours per year = 1,170).

e. Non-Dealer Access

Proposed Rule 17Ad-22(b)(5) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide the opportunity for a person that does not perform any dealer or security-based swap dealer services to obtain membership at the clearing agency to clear securities for itself or on behalf of other persons. The exact nature of the procedures a clearing agency would establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(b)(5) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>44</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 1,890 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 9 respondent clearing agencies = 1,890 hours. For purposes of Form 83-I, this burden will be amortized over three years at 630 hours per year (1,890 hours over 3 years).

Clearing agencies would be required to administer their membership standards required by proposed Rule 17Ad-22(b)(5) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for granting membership to persons that do not perform any dealer or security-based swap dealer services would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements

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<sup>43</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>44</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

of this rule would impose an aggregate annual burden of 60 hours<sup>45</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 540 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 9 respondent clearing agencies = 540 hours for all respondent clearing agencies. Including annualized one-time burdens of 630 hours per year and recurring burdens of 540 hours per year, the total annual burden for all 9 respondents is 1,170 hours per year (9 respondents x 130 hours per year = 1,170).

f. Portfolio Size and Transaction Volume Thresholds Restrictions

Proposed Rule 17Ad-22(b)(6) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to have membership standards that do not require that participants maintain a portfolio of any minimum size or that participants maintain a minimum transaction volume. The exact nature of the procedures a clearing agency would establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based swap data repositories. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(b)(6) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>46</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 1,890 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 9 respondent clearing agencies = 1,890 hours. For purposes of Form 83-I, this burden will be amortized over three years at 630 hours per year (1,890 hours over 3 years).

Clearing agencies would be required to administer their membership standards required by proposed Rule 17Ad-22(b)(6) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for not having membership standards that require participants to maintain a portfolio of any minimum size or that participants maintain a minimum transaction volume would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data

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<sup>45</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>46</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>47</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 540 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 9 respondent clearing agencies = 540 hours for all respondent clearing agencies. Including annualized one-time burdens of 630 hours per year and recurring burdens of 540 hours per year, the total annual burden for all 9 respondents is 1,170 hours per year (9 respondents x 130 hours per year = 1,170).

g. Net Capital Requirements

Proposed Rule 17Ad-22(b)(7) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide a person that maintains a net capital equal to or greater than \$50 million with the ability to obtain membership at the clearing agency, with any net capital requirements being scalable so that they are proportional to the risks posed by the participant's activities to the clearing agency. The exact nature of the procedures a clearing agency would establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that there is sufficient similarity between them for PRA purposes that the burdens would be roughly equivalent.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(b)(7) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>48</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 1,890 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x nine respondent clearing agencies = 1,890 hours. For purposes of Form 83-I, this burden will be amortized over three years at 630 hours per year (1,890 hours over 3 years).

Clearing agencies may need to update these policies and procedures over time, particularly due to the fact that proposed Rule 17Ad-22(b)(7) permits a clearing agency to provide for a higher net capital requirement (i.e., higher than \$50 million) as a condition for membership at the clearing agency if the clearing agency demonstrates to the Commission that such a requirement is necessary to mitigate risks that could not otherwise be effectively managed by other measures, such as scalable limitations on the transactions that the participants may clear through the clearing agency, and the Commission approves the higher net capital requirement as

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<sup>47</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>48</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

part of a rule filing or clearing agency registration application. While the number of times each clearing agency will need to update its policies and procedures to revise its net capital requirements is likely to vary, both over time and between clearing agencies, such changes may occur as a result of an annual review of a clearing agency's operations and default mechanisms. For the same reasons as discussed above, the Commission believes that the estimates of the burden imposed by the policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs are sufficiently similar to serve as a basis for these estimates. Accordingly, the Commission preliminarily estimates that proposed Rule 17Ad-22(b)(7) would impose an annual burden on each respondent clearing agency of 210 hours<sup>49</sup>, corresponding to an aggregate annual burden on all respondent clearing agencies of 1,890 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x nine respondent clearing agencies = 1,890 hours.

Clearing agencies that provide CCP services would be required to administer their net capital requirements required by proposed Rule 17Ad-22(b)(7) on an ongoing basis. The Commission expects that the exact burden of administering the net capital requirements would vary depending on how frequently each clearing agency providing CCP services may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>50</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 540 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 9 respondent clearing agencies = 540 hours for all respondent clearing agencies. Including annualized one-time burdens of 630 hours per year and recurring burdens of 750 hours per year, the total annual burden for all 9 respondents is 12,420 hours per year (9 respondents x 750 hours per year = 12,420).

#### h. Record of Financial Resources

As detailed above, pursuant to proposed Rule 17Ad-22(c)(1), clearing agencies that perform central counterparty services would be required each fiscal quarter (based on calculations made as of the last business day of the clearing agency's fiscal quarter), or at any time upon Commission request, to calculate and maintain a record of the financial resources necessary to meet the requirement in proposed Rule 17Ad-22(c)(1) and sufficient documentation to explain the methodology it uses to compute such financial resource requirement.

The exact nature of the procedures a clearing agency would establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in

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<sup>49</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

<sup>50</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(c)(1) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>51</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 1,890 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 9 respondent clearing agencies = 1,890 hours. For purposes of Form 83-I, this burden will be amortized over three years at 630 hours per year (1,890 hours over 3 years).

Based on its oversight of clearing agencies, the Commission believes that the respondent clearing agencies already have methodologies designed to ensure that in providing CCP services the clearing agency can withstand a default by the participant to which the clearing agency has the largest exposure in extreme but plausible market conditions. Because clearing agencies that provide CCP services already use such methodologies, the Commission preliminarily believes the one-time burden imposed would involve adjustments needed to synthesize and format existing information in a manner sufficient to explain the methodology the clearing agency uses to meet the requirement of proposed Rule 17Ad-22(c)(1). The Commission preliminarily believes these adjustments would impose a one-time burden of 100 hours<sup>52</sup> on each clearing agency, corresponding to an aggregate one-time burden imposed on all clearing agencies of 900 hours. This figure was calculated as follows: ((Chief Compliance Officer at 40 hours) + (Computer Operations Department Manager at 40 hours) + (Senior Programmer at 20 hours)) = 100 hours x 9 respondent clearing agencies = 900 hours. For purposes of Form 83-I, this burden will be amortized over three years at 300 hours per year (900 hours over 3 years).

On an ongoing basis, the Commission estimates that for a clearing agency to generate the required reports concerning its financial resources would impose a burden of three hours per respondent clearing agency per quarter. This amounts to an annual burden of 12 hours for each clearing agency and corresponds to an aggregate annual burden of 108 hours for all respondent clearing agencies. This figure was calculated as follows: ((Compliance Attorney at 1 hour) + (Computer Operations Department Manager at 2 hours)) = 3 hours per quarter x 4 quarters per year = 12 hours per year x 9 respondent clearing agencies = 108 hours.

Clearing agencies providing CCP services would also be required to administer any procedures used to support compliance with Rule 17Ad-22(c)(1) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for granting

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<sup>51</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

<sup>52</sup> The estimated cost of this burden calculated as follows: ((Chief Compliance Officer for 40 hours at \$423 per hour) + (Computer Department Operations Manager for 40 hours at \$367 per hour) + (Senior Programmer for 20 hours at \$304 per hour) = \$37,680.

membership to persons that do not perform any dealer or security-based swap dealer services would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>53</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 540 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 9 respondent clearing agencies = 540 hours for all respondent clearing agencies. Including annualized one-time burdens of 930 hours per year and recurring burdens of 648 hours per year, the total annual burden for all 9 respondents is 14,202 hours per year (9 respondents x 1,578 hours per year = 14,202).

i. Annual Audited Financial Report

Proposed Rule 17Ad-22(c)(2) would also require that a clearing agency post on its website an annual financial report. Each financial report shall (i) be a complete set of financial statements of the clearing agency for the most recent two fiscal years and be prepared in accordance with U.S. GAAP, except that for a clearing agency that is a corporation or other organization incorporated or organized under the laws of any foreign country the financial statements may be prepared according to U.S. GAAP or IFRS; (ii) be audited in accordance with standards of the Public Company Accounting Oversight Board by a registered public accounting firm that is qualified and independent in accordance with Rule 2-01 of Regulation S-X; and (iii) include report of the registered public accounting firm that complies with paragraphs (a) through (d) of Rule 2-02 of Regulation S-X.

The exact nature of the procedures a clearing agency would establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(c)(2) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>54</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior

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<sup>53</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>54</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

The Commission preliminarily believes, based on its oversight of clearing agencies, that the one-time burden imposed by the rule would involve systems adjustments at the clearing agency needed to facilitate posting of the annual audited financial report to the clearing agency's website. The Commission preliminarily believes these adjustments would impose a one-time burden of 100 hours<sup>55</sup> on each clearing agency, corresponding to an aggregate one-time burden imposed on all clearing agencies of 1,700 hours. This figure was calculated as follows: ((Chief Compliance Officer at 40 hours) + (Computer Operations Department Manager at 40 hours) + (Senior Programmer at 20 hours)) = 100 hours x 17 respondent clearing agencies = 1,700 hours. For purposes of Form 83-I, this burden will be amortized over three years. For purposes of Form 83-I, this burden will be amortized over three years at 566.67 hours per year (1,700 hours over 3 years).

On an ongoing basis, clearing agencies would be required to administer any policies and procedures used to support compliance with Rule 17Ad-22(c)(2). The Commission expects that the exact burden of administering the procedures for facilitating an annual audit report of the clearing agency and posting that annual audit report to the clearing agency's website would vary. However, based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>56</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours for all respondent clearing agencies. Including annualized one-time burdens of 1,756.67 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,776.67 hours per year (17 respondents x 925.56 hours per year = 2,776.67).

The Commission estimates based on its experience with entities of similar size to the respondents to this collection, that these reports would generally require on average 500 hours annually per respondent clearing agency to generate. Thus, the Commission preliminarily believes this corresponds to an aggregate annual burden to all clearing agencies of 8,500 hours. This figure was calculated as follows: Senior Accountant at 500 hours x 17 respondent clearing agencies = 8,500 hours.

j. Transparent and Enforceable Rules and Procedures

Proposed Rule 17Ad-22(d)(1) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well founded, transparent and enforceable legal framework. The exact nature of the procedures a clearing agency would establish is likely to vary between clearing agencies. However, there are

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<sup>55</sup> The estimated cost of this burden calculated as follows: ((Chief Compliance Officer for 40 hours at \$423 per hour) + (Computer Department Operations Manager for 40 hours at \$367 per hour) + (Senior Programmer for 20 hours at \$304 per hour) = \$37,680.

<sup>56</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for SDRs. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(1) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>57</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their rules and procedures to ensure they provide for a well founded, transparent and enforceable legal framework on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring participation standards would vary depending on how frequently each clearing agency may need to update its rules and procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

#### k. Participation Requirements

Proposed Rule 17Ad-22(d)(2) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to have procedures in place to monitor that their participation requirements are met on an ongoing basis. The exact nature of the procedures a clearing agency would establish is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(2) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>58</sup>,

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<sup>57</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

<sup>58</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer

corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their participation requirements required by proposed Rule 17Ad-22(d)(2) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring participation requirements would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>59</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours.

Additionally, proposed Rule 17Ad-22(d)(2) would require clearing agencies to publicly disclose their participation requirements. Based on staff discussions with respondents that are already subject to a similar requirement in the CDS Clearing Exemption Orders to make publicly available certain pricing and valuation information for security-based swaps, the Commission estimates that the one-time burden for a security-based swap clearing agency to comply with the requirements of proposed Rule 17Ad-22(d)(2) would involve slight adjustments to computer data systems that would already be in place as part of its clearing agency operations under Exchange Act Section 17A. The Commission preliminarily believes that a similar analysis would apply to each of the other registered clearing agencies. Therefore, the Commission does not anticipate that new hardware, such as additional computer equipment, would be required. Instead, the Commission broadly estimates that a clearing agency's adjustments to its systems to meet the requirements of proposed Rule 17Ad-22(d)(2) would impose a one-time burden of 100 hours<sup>60</sup> on each respondent clearing agency, corresponding to an aggregate one-time burden imposed on all respondent clearing agencies of 1,700 hours. This figure was calculated as follows: ((Chief Compliance Officer at 40 hours) + (Computer Operations Department Manager at 40 hours) + (Senior Programmer at 20 hours)) = 100 hours x 17 respondent clearing agencies = 1,700 hours. For purposes of Form 83-I, this burden will be amortized over three years at 566.67 hours per year (1,700 hours over 3 years).

Respondent clearing agencies would also have an ongoing responsibility to make their participation requirements available. Also based on staff discussion with respondents that are already subject to the requirement in the CDS Clearing Exemption Orders to make certain

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Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

<sup>59</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>60</sup> The estimated cost of this burden calculated as follows: ((Chief Compliance Officer for 40 hours at \$423 per hour) + (Computer Department Operations Manager for 40 hours at \$367 per hour) + (Senior Programmer for 20 hours at \$304 per hour) = \$37,680.

pricing and valuation information publicly available, the Commission preliminarily believes that the ongoing burden would be limited and would likely involve maintenance and troubleshooting of computer systems used to facilitate dissemination of participant requirements. Therefore, the Commission preliminarily estimates this would impose an annual aggregate burden of 60 hours for each respondent clearing agency, which corresponds to an ongoing aggregate annual burden of 1,020 hours for all respondent clearing agencies. This figure was calculated as follows: Computer Operations Department Manager at 60 hours<sup>61</sup> annually x 17 respondent clearing agencies = 1,020 hours for all respondent clearing agencies. Including annualized one-time burdens of 1,756.67 hours per year and recurring burdens of 2,040 hours per year, the total annual burden for all 17 respondents is 3,796.67 hours per year (17 respondents x 223.34 hours per year = 3,796.67).

I. Identification and Mitigation of Custody of Assets and Investment Risk

Proposed Rule 17Ad-22(d)(3) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to hold assets in a manner that minimizes risk of loss or delay in access to them, and to invest assets in instruments with minimal credit, market, and liquidity risks. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(3) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>62</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their custody and investment standards required by proposed Rule 17Ad-22(d)(3) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring custody and investment

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<sup>61</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>62</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

standards would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>63</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours for all respondent clearing agencies. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

m. Identification and Mitigation of Operational Risk

Proposed Rule 17Ad-22(d)(4) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify and have procedures in place, including business continuity plans, to minimize sources of operational risk. The exact nature of the procedures a clearing agency would establish is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(4) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>64</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their operational standards required by proposed Rule 17Ad-22(d)(4) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring operational risks would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that

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<sup>63</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>64</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>65</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours for all respondent clearing agencies. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

n. Money Settlement Risks

Proposed Rule 17Ad-22(d)(5) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to employ money settlement arrangements that eliminate or strictly limit the clearing agency's settlement bank risks, that is, its credit and liquidity risks from the use of banks to effect money settlements with its participants; and require funds transfers to the clearing agency to be final when effected. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(5) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>66</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their settlement arrangements required by proposed Rule 17Ad-22(d)(5) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring settlement arrangements would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that

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<sup>65</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>66</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>67</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours for all respondent clearing agencies. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

o. Cost-Effectiveness

Proposed Rule 17Ad-22(d)(6) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to be cost effective in meeting the requirements of participants while maintaining safe and secure operations. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(6) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>68</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their cost-effectiveness standards required by proposed Rule 17Ad-22(d)(6) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring cost-effectiveness standards would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>69</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as

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<sup>67</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>68</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours for all respondent clearing agencies. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

p. Links

Proposed Rule 17Ad-22(d)(7) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to evaluate the potential sources of risks that can arise when the clearing agency establishes links either cross-border or domestically to clear trades and ensure that the risks are managed prudently on an ongoing basis. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based swap data repositories. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(7) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>70</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their links arrangements as required by proposed Rule 17Ad-22(d)(7) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring links arrangements would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>71</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent

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<sup>69</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>70</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

<sup>71</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours for all respondent clearing agencies. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

q. Governance

Proposed Rule 17Ad-22(d)(8) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to have governance arrangements that are clear and transparent to fulfill the public interest requirements in Section 17A of the Act applicable to clearing agencies, to support the objectives of owners and participants, and to promote the effectiveness of the clearing agency's risk management procedures. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(8) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>72</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their governance arrangements as required by proposed Rule 17Ad-22(d)(8) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring governance arrangements would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>73</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows:

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<sup>72</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

<sup>73</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours for all respondent clearing agencies.

Based on information from respondents that are already subject to a similar requirement in the CDS Clearing Exemption Orders to make publicly available certain pricing and valuation information with respect to security-based swaps, the Commission estimates that the one-time burden for a clearing agency to provide transparency about its governance arrangements to fulfill the public interest requirements in Section 17A of the Exchange Act would involve slight adjustments to data systems that would already be in place as part of the clearing agency's operations. Therefore, the Commission does not anticipate that new hardware, such as additional computer equipment, would be required. Instead, the Commission broadly estimates that for a clearing agency to adjust its systems to meet the requirements of proposed Rule 17Ad-22(d)(8) would impose a one-time burden of 100 hours<sup>74</sup> on each respondent clearing agency, corresponding to an aggregate one-time burden imposed on all respondent clearing agencies of 1,700 hours. This figure was calculated as follows: ((Chief Compliance Officer at 40 hours) + (Computer Operations Department Manager at 40 hours) + (Senior Programmer at 20 hours)) x 17 respondent clearing agencies = 1,700 hours. For purposes of Form 83-I, this burden will be amortized over three years at 566.67 hours per year (1,700 hours over 3 years). Including annualized one-time burdens of 1,756.67 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,776.67 hours per year (17 respondents x 925.56 hours per year = 2,776.67).

r. Information on Services

Proposed Rule 17Ad-22(d)(9) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide market participants with sufficient information for them to identify and evaluate the risks and costs associated with using their services. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(9) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>75</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570

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<sup>74</sup> The estimated cost of this burden calculated as follows: ((Chief Compliance Officer for 40 hours at \$423 per hour) + (Computer Department Operations Manager for 40 hours at \$367 per hour) + (Senior Programmer for 20 hours at \$304 per hour) = \$37,680.

<sup>75</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Respondent clearing agencies would also have an ongoing responsibility to make this information available. Also based on informal comments from respondents already subject to a similar requirement in the CDS Clearing Exemption Orders to make certain pricing and valuation information with respect to security-based swaps publicly available, the Commission preliminarily believes that the ongoing burden would be limited and would likely involve maintenance and troubleshooting of computer systems used to facilitate dissemination of information responsive to Rule 17Ad-22(d)(9). Therefore, the Commission preliminarily estimates this would impose an annual aggregate burden of 60 hours<sup>76</sup> for each respondent clearing agency, which corresponds to an ongoing aggregate annual burden of 1,020 hours for all respondent clearing agencies. This figure was calculated as follows: Computer Operations Department Manager at 60 hours annually x 17 respondent clearing agencies = 1,020 hours for all respondent clearing agencies.

Based on information from respondents that are already subject to a similar requirement in the CDS Clearing Exemption Orders to make publicly available certain pricing and valuation information with respect to security-based swaps, the Commission estimates that the one-time burden to provide market participants with sufficient information for them to identify and evaluate accurately the risks and costs associated with using a clearing agency's services would involve slight adjustments to data systems that would already be in place as part of the clearing agency's operations under Exchange Act Section 17A. Therefore, the Commission does not anticipate that new hardware, such as additional computer equipment, would be required. Instead, the Commission broadly estimates that for a clearing agency to adjust its systems to meet the requirements of proposed Rule 17Ad-22(d)(9) would impose a one-time burden of 100 hours<sup>77</sup> on each respondent clearing agency, corresponding to an aggregate one-time burden imposed on all respondent clearing agencies of 1,700 hours. This figure was calculated as follows: ((Chief Compliance Officer at 40 hours) + (Computer Operations Department Manager at 40 hours) + (Senior Programmer at 20 hours)) x 17 respondent clearing agencies = 1,700 hours. For purposes of Form 83-I, this burden will be amortized over three years. For purposes of Form 83-I, this burden will be amortized over three years at 566.67 hours per year (1,700 hours over 3 years). Including annualized one-time burdens of 1,756.67 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,776.67 hours per year (17 respondents x 925.56 hours per year = 2,776.67).

s. Immobilization and Dematerialization of Stock Certificates

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<sup>76</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>77</sup> The estimated cost of this burden calculated as follows: ((Chief Compliance Officer for 40 hours at \$423 per hour) + (Computer Department Operations Manager for 40 hours at \$367 per hour) + (Senior Programmer for 20 hours at \$304 per hour) = \$37,680.

Proposed Rule 17Ad-22(d)(10) would require a clearing agency that provides central securities depository services to immobilize or dematerialize securities certificates and transfer them by book entry to the greatest extent possible. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(10) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>78</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies that provide central securities depository services would be required to administer their standards for immobilizing or dematerializing securities certificates as required by proposed Rule 17Ad-22(d)(10) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for immobilizing and dematerializing securities certificates would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>79</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agency = 1020 hours for all respondent clearing agencies. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

t. Default Procedures

Proposed Rule 17Ad-22(d)(11) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to make key aspects of the clearing agency's default procedures publicly available and to establish default procedures

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<sup>78</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

<sup>79</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default. The exact nature of the procedures a clearing agency would establish is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(11) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>80</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their default standards required by proposed Rule 17Ad-22(d)(11) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring default standards would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>81</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours.

Based on information from respondents that are already subject to a similar requirement in the CDS Clearing Exemption Orders to make publicly available certain pricing and valuation information with respect to security-based swaps, the Commission estimates that the one-time burden for a clearing agency to make key aspects of its default procedures publicly available would involve slight adjustments to data systems that would already be in place as part of the clearing agency's operations under Section 17A of the Exchange Act. Therefore, the Commission does not anticipate that new hardware, such as additional computer equipment, would be required. Instead, the Commission broadly estimates that for a clearing agency to adjust its systems to meet the requirements of proposed Rule 17Ad-22(d)(11) would impose a one-time burden of 100 hours<sup>82</sup> on each respondent clearing agency, corresponding to an aggregate one-time burden imposed on all respondent clearing agencies of 1,700 hours. This

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<sup>80</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

<sup>81</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

figure was calculated as follows: ((Chief Compliance Officer at 40 hours) + (Computer Operations Department Manager at 40 hours) + (Senior Programmer at 20 hours)) x 17 respondent clearing agencies = 1,700 hours. For purposes of Form 83-I, this burden will be amortized over three years at 566.67 hours per year (1,700 hours over 3 years). Including annualized one-time burdens of 1,756.67 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,776.67 hours per year (17 respondents x 925.56 hours per year = 2,776.67).

u. Timing of Settlement Finality

Proposed Rule 17Ad-22(d)(12) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to ensure that final settlement occurs no later than the end of the settlement day and require that intraday or real-time finality be provided where necessary to reduce risks. The exact nature of the procedures a clearing agency would establish is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based swap data repositories. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(12) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>83</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their settlement finality standards required by proposed Rule 17Ad-22(d)(12) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for ensuring the timing of settlement finality would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate

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<sup>82</sup> The estimated cost of this burden calculated as follows: ((Chief Compliance Officer for 40 hours at \$423 per hour) + (Computer Department Operations Manager for 40 hours at \$367 per hour) + (Senior Programmer for 20 hours at \$304 per hour) = \$37,680.

<sup>83</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

annual burden of 60 hours<sup>84</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

v. Delivery Versus Payment

Proposed Rule 17Ad-22(d)(13) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to eliminate principal risk by linking securities transfers to funds transfers in a way that achieves delivery versus payment. The exact nature of the procedures a clearing agency would establish is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based swap data repositories. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(13) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>85</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their delivery versus payment standards required by proposed Rule 17Ad-22(d)(13) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for delivery versus payment would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>86</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for

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<sup>84</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>85</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

<sup>86</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

w. Risk Controls to Address Participants' Failure to Settle

Proposed Rule 17Ad-22(d)(14) would require clearing agencies to establish, implement, maintain and enforce written policies and procedures reasonably designed to institute risk controls, including collateral requirements and limits to cover the clearing agency's credit exposure to each participant exposure fully, and that ensure timely settlement in the event that the participant with the largest payment obligation is unable to settle when the clearing agency provides central securities depository services and extends intraday credit to participants. The exact nature of any rules and procedures a clearing agency would likely establish to support this requirement is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(14) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>87</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies that provide central securities depository services would be required to administer their risk control standards required by proposed Rule 17Ad-22(d)(14) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for risk controls, including collateral requirements and limits to cover the clearing agency's credit exposure to each participant exposure fully and that ensure timely settlement in the event that the participant with the largest payment obligation is unable to settle would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation

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<sup>87</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>88</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours for all respondent clearing agencies. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

x. Identification and Management of Physical Delivery Risks

Proposed Rule 17Ad-22(d)(15) would require a clearing agency to state to its participants the clearing agency's obligations with respect to physical deliveries and to identify and manage the risks that arise in connection with these obligations. The exact form in which a clearing agency would state to its participants the clearing agency's obligations with respect to physical deliveries and to identify and manage the risks in connection with those obligations is likely to vary between clearing agencies. However, there are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based SDRs. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-22(d)(15) would impose a one-time burden on each respondent clearing agency of 210 hours<sup>89</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their physical delivery standards required by proposed Rule 17Ad-22(d)(15) on an ongoing basis. The Commission expects that the exact burden of administering the procedures for monitoring physical delivery standards would vary depending on how frequently each clearing agency may need to update its procedures. Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate

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<sup>88</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>89</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

annual burden of 60 hours<sup>90</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours.

Based on information from respondents that are already subject to a similar requirement in the CDS Clearing Exemption Orders to make publicly available certain pricing and valuation information with respect to security-based swaps, the Commission estimates that the one-time burden for a clearing agency to state to its participants its obligations with respect to physical deliveries would involve slight adjustments to data systems that would already be in place as part of the clearing agency's operations under Section 17A of the Exchange Act. Therefore, the Commission does not anticipate that new hardware, such as additional computer equipment, would be required. Instead, the Commission broadly estimates that for a clearing agency to adjust its systems to meet the requirements of proposed Rule 17Ad-22(d)(15) would impose a one-time burden of 100 hours<sup>91</sup> on each respondent clearing agency, corresponding to an aggregate one-time burden imposed on all respondent clearing agencies of 1,700 hours. This figure was calculated as follows: ((Chief Compliance Officer at 40 hours) + (Computer Operations Department Manager at 40 hours) + (Senior Programmer at 20 hours)) x 17 respondent clearing agencies = 1,700 hours. For purposes of Form 83-I, this burden will be amortized over three years at 566.67 hours per year (1,700 hours over 3 years). Including annualized one-time burdens of 1,756.67 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,776.67 hours per year (17 respondents x 163.33 hours per year = 2,776.67).

### **Estimated Annualized Costs for Proposed Rule 17Ad-22**

#### **a. Model Validation**

As discussed above, proposed Rule 17Ad-22(b)(4) would require a clearing agency that provides CCP services to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for an annual model validation. As outlined above, the Commission estimates a total of nine respondents to this requirement. To meet the requirements of the proposed Rule 17Ad-22(b)(4) to provide for an annual model validation, the Commission preliminarily believes clearing agencies would hire a consulting firm that dedicates two consultants to the project. The Commission estimates that this requirement would impose an ongoing annual purchase of services cost of approximately \$432,000 for each respondent, which corresponds to a total annual cost of approximately \$3,888,000 in the aggregate for all respondent clearing agencies. This figure was calculated as follows: 2 Consultants for 30 hours per week at \$600 per hour = \$36,000 per week x 12 weeks = \$432,000 per clearing agency x 9 clearing agencies = \$3,888,000.

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<sup>90</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

<sup>91</sup> The estimated cost of this burden calculated as follows: ((Chief Compliance Officer for 40 hours at \$423 per hour) + (Computer Department Operations Manager for 40 hours at \$367 per hour) + (Senior Programmer for 20 hours at \$304 per hour) = \$37,680.

b. Annual Audited Financial Statement

As noted above, Proposed Rule 17Ad-22(c)(2) would require each clearing agency to post on its website an annual audited financial report. The requirement would also require the services of a registered public accounting firm. As outlined above, the Commission estimates a total of 17 respondents to this requirement. The Commission estimates those services would cost approximately \$500,000 annually. Therefore, to meet the ongoing requirements of proposed Rule 17Ad-22(c)(2) the Commission estimates a total annual purchase of services cost of approximately \$8,500,000. This figure was calculated as follows: \$500,000 for independent public accounting services x 17 respondent clearing agencies = \$8,500,000.

**Total Hours Burden for Proposed Rule 17Aj-1**

The requirement for dissemination of pricing and valuation information in proposed Rule 17Aj-1 would effectively require each of the entities authorized to provide CCP services for security-based swaps pursuant to the CDS Clearing Exemption Orders to continue the information dissemination practices they already perform. These entities generate end of day settlement prices and other model prices for security-based swaps, which can be used to establish margin requirements for participant positions and could provide prices in the event of a default scenario. As outlined above, the Commission estimates a total of six respondents would be subject to this requirement.

Based on information from respondents that are already subject to a similar requirement in the CDS Clearing Exemption Orders to disseminate pricing and valuation information, the Commission preliminarily believes that the requirements of proposed Rule 17Aj-1 would impose one-time and ongoing burdens on respondent clearing agencies. For instance, compliance professionals may need to work with information technology and operations professionals to accurately memorialize in writing the specific policy and procedure requirements regarding the dissemination of pricing and valuation information. Information technology personnel may be relied on to develop or modify computer programs that facilitate the requirements of the policies and procedures.

The Commission estimates that the one-time burden for a security-based swap clearing agency to comply with the requirements of proposed Rule 17Aj-1 would involve slight adjustments to data systems that would already be in place as part of the operation of the respondent as a registered clearing agency that provides CCP services for security-based swaps. Therefore, the Commission does not anticipate that new hardware, such as additional computer equipment, would be required. Instead, the Commission broadly estimates that for a clearing agency to adjust its systems to meet the requirements of proposed Rule 17Aj-1 would impose a one-time burden of 100 hours<sup>92</sup> on each respondent clearing agency, corresponding to an aggregate one-time burden imposed on all respondent clearing agencies of 600 hours. This figure was calculated as follows: ((Chief Compliance Officer at 40 hours) + (Computer Operations Department Manager at 40 hours) + (Senior Programmer at 20 hours)) = 100 hours x

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<sup>92</sup> The estimated cost of this burden is calculated as follows: ((Chief Compliance Officer for 40 hours at \$423) + (Computer Operations Department Manager for 40 hours at \$367) + (Senior Programmer for 20 hours at \$304)) = \$37,680.

6 respondent clearing agencies = 600 hours. For purposes of Form 83-I, this burden will be amortized over three years at 200 hours per year (600 hours over 3 years).

Respondent clearing agencies would also have an ongoing responsibility to make their relevant pricing and valuation information available. Based on informal comments from respondents that are already subject to a similar requirement in the CDS Clearing Exemption Orders, the Commission preliminarily believes that the ongoing burden would be limited and would likely involve maintenance and troubleshooting of computer systems used to facilitate dissemination of covered pricing and valuation information. Therefore, the Commission preliminarily estimates this would impose an annual aggregate burden of 60 hours<sup>93</sup> for each respondent clearing agency, which corresponds to an ongoing aggregate annual burden of 360 hours for all respondent clearing agencies. This figure was calculated as follows: Computer Operations Department Manager at 60 hours annually x 6 respondent clearing agencies = 360 hours. Including annualized one-time burdens of 200 hours per year and recurring burdens of 360 hours per year, the total annual burden for all 6 respondents is 560 hours per year (6 respondents x 93.33 hours per year = 560).

### **Total Hours Burden for Proposed Rule 17Ad-23**

Proposed Rule 17Ad-23 would require each clearing agency to establish, maintain and enforce written policies and procedures designed to protect the confidentiality of clearing members' trading information. As outlined above, the Commission estimates a total of 17 respondents would be subject to this requirement.

Based on the staff's conversations with respondents that are already subject to a similar policies and procedures requirement as part of the CDS Clearing Exemption Orders, the Commission preliminarily believes that establishing, maintaining and enforcing written policies and procedures to protect confidential information of clearing members would require collaboration and coordination across business units within the clearing agency. For instance, legal or compliance professionals may need to work with information technology and operations professionals to accurately memorialize in writing the specific policy and procedure requirements that the clearing agency decides to establish. Information technology personnel may be heavily relied on to develop or modify computer programs that facilitate the requirements of the policies and procedures. Developing business practices that are synchronized with the policies and procedures may also entail coordination with the clearing agency's human resources or risk management personnel to ensure effective adoption of any employee training created to inform employees about trading restrictions or other areas of the policies and procedures that impact them.

The exact nature of the written policies and procedures a clearing agency would establish is likely to vary. However, based on preliminary information from respondents that are affected by similar requirements under the CDS Clearing Exemption Orders and also based on the Commission's experience in administering those orders, the Commission preliminarily believes that the proposed rule would impose a one-time burden on each respondent clearing agency of 610 hours<sup>94</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies

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<sup>93</sup> The estimated cost of this burden is calculated as follows: Computer Operations Department Manager for 60 hours at \$367 dollars per hour = \$22,020.

<sup>94</sup> The estimated cost of this burden is calculated as follows: ((Chief Compliance Officer for 210 hours at \$423 per hour) + (Computer Operations Department Manager for 180 hours at \$367 per

of 10,370 hours. This figure was calculated as follows: ((Chief Compliance Officer at 210 hours) + (Computer Operations Department Manager at 180 hours) + (Senior Programmer at 180 hours) + (Senior Risk Management Specialist at 40 hours)) = 610 hours x 17 respondent clearing agencies = 10,370 hours. For purposes of Form 83-I, this burden will be amortized over three years at 3,456.67 hours per year (10,370 hours over 3 years).

The Commission also preliminarily understands from respondents subject to the similar requirement in the CDS Clearing Exemption Orders that monitoring and enforcing the written policies and procedures required by proposed Rule 17Ad-23 would likely require resource commitments from many of the same business units needed to develop such policies and procedures. For instance, as part of the effort to restrict, as appropriate, trading by clearing agency employees for their own accounts and to prevent misuse and misappropriation of information protected by the rule, the Commission preliminarily believes a clearing agency would need to devote fifty percent of the work hours of a full-time, compliance attorney. The Commission preliminarily expects this resource commitment may, among other things, take the form of obtaining and reviewing brokerage statements of clearing agency employees and reviewing their e-mails. Time for employee training related to the requirements of the policies and procedures, troubleshooting any computer systems designed to protect information in connection with the policies and procedures, and amendments to the policies and procedures are also factors that may contribute to the ongoing burden on clearing agencies. Accordingly, the Commission preliminarily estimates the rule would impose an annual aggregate burden on each respondent of 1,128 hours<sup>95</sup>, corresponding to an aggregate annual burden on all clearing agencies of 19,176 hours. This figure was calculated as follows ((Compliance Attorney at 4 hours per business day x 260 business days per year) = 1040 hours per year + (Computer Operations Department Manager at 40 hours per year) + (Senior Programmer at 40 hours per year) + (Senior Risk Management Specialist at 8 hours per year)) = 1,128 hours per year x 17 respondent clearing agencies = 19,176 hours per year. Including annualized one-time burdens of 3,456.67 hours per year and recurring burdens of 19,176 hours per year, the total annual burden for all 17 respondents is 22,632.67 hours per year (17 respondents x 1,331.33 hours per year = 22,632.67).

### **Estimated Annualized Cost for Proposed Rule 17Ad-23**

Proposed Rule 17Ad-23 would require each registered clearing agency to establish, maintain and enforce written policies and procedures designed to protect the confidentiality of any and all transaction information that the clearing agency receives. As outlined above, the Commission estimates a total of 17 respondents to this requirement. The rule would impose ongoing maintenance costs associated with storing confidential data in the form and manner prescribed by the clearing agency's policies and procedures. The Commission preliminarily

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hour) + (Senior Programmer for 180 hours at \$304 per hour) + (Risk Management Specialist for 40 hours at \$192 per hour) = \$217,290.

<sup>95</sup> The estimated cost of this burden is calculated as follows: ((Compliance Attorney at 4 hours per business day x 260 business days per year = 1040 hours per year at \$423 per hour + ((Computer Operations Department Manager for 40 hours per year at \$367 per hour) + (Senior Programmer for 40 hours per year at \$304 per hour) + (Senior Risk Management Specialist at 8 hours per year at \$409 per hour)) = \$470,032 x 17 respondent clearing agencies = \$7,990,544.

believes that a clearing agency would likely purchase computer software from a third party vendor that the clearing agency would then use to implement the aspects of its policies and procedures designed to restrict, as appropriate, the trading of clearing agency employees for their own account and to prevent misuse and misappropriation of participant information protected by the rule. The cost of such computer software is likely to vary according to the specific policies and procedures of the clearing agency (*i.e.*, based on the number of licenses it may need to cover its employees, the types of services it needs the software to provide, etc.). However the Commission preliminarily estimates that the rule would impose a one-time cost of approximately \$10,000 dollars on each clearing agency, corresponding to an aggregate one time burden on all clearing agencies of \$170,000. This figure was calculated as follows: \$10,000 dollars in software costs per respondent clearing agency x 17 respondent clearing agencies = \$170,000. For purposes of Form 83-I, this cost will be amortized over three years at \$56,666.67 per year (\$170,000 over 3 years = \$56,666.67).

### **Total Hours Burden for Proposed Rule 17Ad-25**

Proposed Rule 17Ad-25 would require each clearing agency to establish, implement, maintain and enforce written policies and procedures that are reasonably designed to identify and address existing or potential conflicts of interest and minimize conflicts of interest in the decision-making process of the clearing agency. As outlined above, the Commission estimates a total of 17 respondents to this requirement.

The exact nature of the policies and procedures a clearing agency would establish is likely to vary between clearing agencies. For instance, legal or compliance professionals may need to work to accurately memorialize in writing the specific policy and procedure requirements regarding conflicts of interest. Information technology personnel may be relied on to develop, modify or implement computer programs that facilitate the requirements of the policies and procedures.

There are estimates of the burden imposed by similar policies and procedures requirements in Regulation NMS and in proposed requirements for security-based swap data repositories. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that for PRA purposes there is similarity in the burden to create policies and procedures.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily estimates that proposed Rule 17Ad-25 would impose a one-time burden on each respondent clearing agency of 420 hours<sup>96</sup>, corresponding to an aggregate one-time burden on all respondent clearing agencies of 7,140 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours to create one policy and procedure x 2 policies and procedures x 17 respondent clearing agencies = 7,140 hours. Also based on the estimates in Regulation NMS and

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<sup>96</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827 x 2 policies and procedures = \$151,654.

for security-based swap data repositories, the Commission estimates that a burden for outside legal services x 50 hours x 2 policies and procedures x 17 clearing agencies. For purposes of Form 83-I, this burden will be amortized over three years at 2,380 hours per year (7,140 hours over 3 years).

For a clearing agency to monitor, enforce, and potentially adjust its policies and procedures in connection with proposed Rule 17Ad-25, the Commission preliminarily believes these activities would impose an ongoing aggregate annual burden on each respondent clearing agency of 120 hour<sup>97</sup>s, corresponding to an aggregate annual ongoing burden for all respondents of 2,040 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours to administer one policy and procedure x 2 policies and procedures = 2,040 hours. Including annualized one-time burdens of 2,380 hours per year and recurring burdens of 2,040 hours per year, the total annual burden for all 17 respondents is 4,420 hours per year (17 respondents x 260 hours per year = 4,420).

### **Estimated Annualized Cost for Proposed Rule 17Ad-25**

Proposed Rule 17Ad-25 would require each clearing agency to establish, implement, maintain and enforce written policies and procedures that are reasonably designed to identify and address existing or potential conflicts of interest and minimize conflicts of interest in the decision-making process of the clearing agency. As outlined above, the Commission estimates a total of 17 respondents to this requirement. Based on the estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that a burden of \$40,000 in initial outside legal costs would be incurred per respondent clearing agency for an aggregate outside cost burden of \$680,000 for all clearing agencies. This estimated \$680,000 figure has been calculated as follows: \$400 per hour cost for outside legal services x 50 hours x 2 policies and procedures x 17 clearing agencies. For purposes of Form 83-I, this cost will be amortized over three years at \$226,666.67 (\$680,000 over 3 years = \$226,666.67).

### **Total Hours Burden for Proposed Rule 17Ad-26**

Proposed Rule 17Ad-26 outlines the proposed governance standards that clearing agencies would be required to establish for board or board committee directors. As outlined above, the Commission estimates a total of 17 respondents to this requirement.

The exact nature of the policies and procedures a clearing agency would establish is likely to vary between clearing agencies. For instance, legal or compliance professionals may need to work with a law firm to accurately memorialize in writing the specific policy and procedure requirements regarding the selection of directors. However, as noted above in the discussion of the burdens associated with proposed Rule 17Ad-25, there are estimates of similar burdens imposed by policies and procedures requirements in Regulation NMS and in the proposed requirements for security-based swap data repositories. While the requirements underlying those estimates are not identical to this requirement for clearing agencies, the Commission preliminarily believes that there is sufficient similarity between them for PRA purposes that the burden would be roughly equivalent.

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<sup>97</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200 x 2 policies and procedures = \$38,400.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories, the Commission preliminarily believes that this rule would impose an aggregate one-time burden on each respondent clearing agency of 210 hours<sup>98</sup> to create the minimum standards required by the rule, corresponding to a one-time aggregate burden for all clearing agencies of 3,570 hours. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours x 17 respondent clearing agencies = 3,570 hours. For purposes of Form 83-I, this burden will be amortized over three years at 1,190 hours per year (3,570 hours over 3 years).

Clearing agencies would be required to administer their governance standards required by proposed Rule 17Ad-26 on an ongoing basis. The Commission expects that the exact burden of administering the governance standards would vary depending on factors that include, but are not limited to, how frequently a clearing agency elects new board members and how many board and board committee members are involved with the governance of each clearing agency. These factors would influence the time spent evaluating potential new board members as well as the time needed to assess existing board members at least annually for compliance with the standards.

Based on the analogous policies and procedures requirements and the corresponding burden estimates in Regulation NMS and for security-based swap data repositories, the Commission estimates that the ongoing requirements of this rule would impose an aggregate annual burden of 60 hours<sup>99</sup> on each respondent clearing agency, corresponding to an aggregate annual burden for all respondent clearing agencies of 1,020 hours. This figure was calculated as follows: Compliance Attorney at 60 hours x 17 respondent clearing agencies = 1,020 hours. Including annualized one-time burdens of 1,190 hours per year and recurring burdens of 1,020 hours per year, the total annual burden for all 17 respondents is 2,210 hours per year (17 respondents x 130 hours per year = 2,210).

### **Estimated Annualized Costs for Proposed Rule 17Ad-26**

Proposed Rule 17Ad-26 outlines the proposed governance standards that clearing agencies would be required to establish for board or board committee directors. As outlined above, the Commission estimates a total of 17 respondents to this requirement. The Commission also estimates, based on similar requirements and the corresponding burdens in Regulation NMS and for security-based swap data repositories that a total burden of \$20,000 in initial outside legal costs would be incurred by each respondent clearing agency, corresponding to an aggregate cost burden of \$340,000 for all respondent clearing agencies. This estimated figure was calculated as follows: (\$400 per hour cost for outside legal services x 50 hours) x 17 respondent

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<sup>98</sup> The estimated cost of this burden is calculated as follows: ((Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827.

<sup>99</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 60 hours at \$320 per hour = \$19,200.

clearing agencies = \$340,000. For purposes of Form 83-I, this cost will be amortized over three years at a cost of \$113,333.33 per year (\$340,000 over 3 years = \$113,333.33).

The Commission preliminarily believes that third party facilitation of the annual review of the incumbent board members would also impose an ongoing annual purchase of services cost of \$6,000 for each respondent, which corresponds to a total annual cost of \$204,000 in the aggregate for all respondent clearing agencies. This figure was calculated as follows: One Consultant for 20 hours at \$600 per hour = \$12,000 x 17 respondent clearing agencies = \$204,000.

Including annualized one-time costs of \$113,333.33 per year and recurring cost of \$204,000 per year, the total annual cost for all 17 respondents is \$317,333.33 per year (17 respondents x \$18,666.67 per year = \$317,333.33).

### **Total Hours Burden for Proposed Rule 3Cj-1(b)**

Under proposed Rule 3Cj-1(b), a registered clearing agency's CCO would be responsible for, among other matters, (1) establishing policies and procedures for the remediation of non-compliance issues identified by the CCO and (2) establishing and following appropriate procedures for the handling of management response, remediation, retesting and closing of non-compliance issues. As outlined above, the Commission estimates a total of 17 respondents to this requirement.

The exact nature of the policies and procedures a clearing agency would establish is likely to vary between clearing agencies. However, as noted in the discussion of the estimated burdens for proposed Rules 17Ad-25 and 17Ad-26, there are similarly positioned requirements and corresponding burden estimates in Regulation NMS and in the proposed requirements for security-based swap data repositories. The proposed rule requirements that create the estimated PRA burden for the CCO of a security-based swap data repository are highly-similar to the proposed requirements for the CCO of a clearing agency in Rule 3Cj-1(b). This is because both rules are predicated on statutory provisions of the Exchange Act that contain statutory requirements that mirror one another to a large degree. Therefore, the Commission preliminarily believes that for PRA purposes the burdens would be roughly equivalent.

Consequently, the Commission preliminarily estimates that the two requirements for the CCO of a clearing agency under proposed Rule 3Cj-1 would require 420 hours<sup>100</sup> to create policies and procedures, corresponding to a total burden of 7,140 hours initially. This figure was calculated as follows: ((Assistant General Counsel at 87 hours) + (Compliance Attorney at 77 hours) + (Computer Operations Manager at 23 hours) + (Senior Business Analyst at 23 hours)) = 210 hours to create one policy and procedure x 2 policies and procedures x 17 respondent clearing agencies = 7,140 hours. For purposes of Form 83-I, this burden will be amortized over three years at 2,380 hours per year (7,140 hours over 3 years).

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<sup>100</sup> The estimated cost of this burden is calculated as follows: Assistant General Counsel for 87 hours at \$430 per hour) + (Compliance Attorney for 77 hours at \$320 per hour) + (Computer Operations Department Manager for 23 hours at \$367 per hour) + (Senior Business Analyst for 23 hours at \$232 per hour)) = \$75,827 x 2 policies and procedures = \$151,654.

The Commission also preliminarily estimates 120 hours<sup>101</sup> to administer each policy and procedure per year per respondent, corresponding to 1,200 hours on average annually. This figure was calculated as follows: (Compliance Attorney at 60 hours x 17 respondent clearing agencies) = 1,020 hours to administer one policy and procedure x 2 policies and procedures = 2,040 hours. The Commission preliminarily believes that this work will be conducted internally.

The CCO would also be required under proposed Rule 3Cj-1(c) to prepare, sign and submit (to the clearing agency’s board of directors and audit committee (or equivalent bodies) and to the Commission) an annual compliance report that contains a description of (i) the compliance of the clearing agency with respect to the federal securities laws and the rules and regulations thereunder, and (ii) each policy and procedure of the clearing agency of the compliance officer (including the code of ethics and conflict of interest policies of the registered clearing agency). Based upon the Commission’s experience with similar reports, the Commission preliminarily estimates that this would require an average of 54 hours<sup>102</sup> per respondent per year. Thus, the Commission preliminarily estimates an aggregate annual burden of 918 hours on all respondent clearing agencies. This figure is based on the following: ((Compliance Attorney at 50 hours) + (Senior Systems Analyst at 4 hours)) x 17 clearing agencies = 918 hours. Because the report will be submitted by the internal CCO, the Commission preliminarily does not expect any external costs. Including annualized one-time burdens of 2,380 hours per year and recurring burdens of 2,958 hours per year, the total annual burden for all 17 respondents is 5,338 hours per year (17 respondents x 314 hours per year = 5,338).

### **Estimated Annualized Costs for Proposed Rule Cj-1(b)**

Under proposed Rule 3Cj-1(b), a registered clearing agency’s CCO would be responsible for, among other matters, (1) establishing policies and procedures for the remediation of non-compliance issues identified by the CCO and (2) establishing and following appropriate procedures for the handling of management response, remediation, retesting and closing of non-compliance issues. As outlined above, the Commission estimates a total of 17 respondents to this requirement. Based on the similarly positioned burdens in Regulation NMS and in the proposed requirements for the CCO of a security-based swaps data repository, the Commission preliminarily estimates that a total of \$40,000 in initial outside legal costs would be incurred by each respondent clearing agency. This corresponds to an aggregate, one-time outside cost burden of \$680,000 for all clearing agencies. This figure was calculated as follows: ((\$400 per hour cost for outside legal services x 50 hours) x (2 policies and procedures)) x 17 clearing agencies = \$680,000. For purposes of Form 83-I, this cost will be amortized over three years at \$226,666.67 per year (17 respondents x \$13,333.33 = 226,666.67).

### **13. Table of Burdens and Costs**

<b>Proposed Rules</b>	<b>Estimated Annual Burden</b>	<b>Estimated Annual Cost</b>
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<sup>101</sup> The estimated cost of this burden is calculated as follows: Compliance Attorney for 120 hours at \$320 per hour = \$38,400.

<sup>102</sup> The estimated cost of this burden is calculated as follows: ((Compliance Attorney for 50 hours at \$320 per hour) + (Senior Systems Analyst for 4 hours at \$259 per hour)) = \$17,036.

<b>Rule 17Ad-22(b)(1)</b>	1,170 Hours	
<b>Rule 17Ad-22(b)(2)</b>	1,170 Hours	
<b>Rule 17Ad-22(b)(3)</b>	1,170 Hours	
<b>Rule 17Ad-22(b)(4)</b>	1,170 Hours	\$3,888,000
<b>Rule 17Ad-22(b)(5)</b>	1,170 Hours	
<b>Rule 17Ad-22(b)(6)</b>	1,170 Hours	
<b>Rule 17Ad-22(b)(7)</b>	3,060 Hours	
<b>Rule 17Ad-22(c)(1)</b>	1,584 Hours	
<b>Rule 17Ad-22(c)(2)</b>	2,771 Hours	\$8,500,000
<b>Rule 17Ad-22(d)(1)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(2)</b>	3,791 Hours	
<b>Rule 17Ad-22(d)(3)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(4)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(5)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(6)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(7)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(8)</b>	2,771 Hours	
<b>Rule 17Ad-22(d)(9)</b>	2,771 Hours	
<b>Rule 17Ad-22(d)(10)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(11)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(12)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(13)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(14)</b>	2,210 Hours	
<b>Rule 17Ad-22(d)(15)</b>	2,771 Hours	
<b>Rule 17Aj-1</b>	560 Hours	
<b>Rule 17Ad-23</b>	22,633 Hours	\$56,667
<b>Rule 17Ad-25</b>	4,420 Hours	\$226,667
<b>Rule 17Ad-26</b>	2,210 Hours	\$317,333
<b>Rule 3Cj-1(b)</b>	5,338 Hours	\$226,667
<b>Total</b>	<b>86,571</b>	<b>\$13,215,334</b>

**14. Costs to Federal Government**

Not applicable.

**15. Changes in Burden**

Not applicable.

**16. Information Planned for Statistical Purposes**

Not applicable.

**17. Display of OMB Approval Date**

Not applicable.

**18. Exceptions to Certification for Paperwork Reduction Act Submissions**

Not applicable.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not applicable. The collection of information does not employ statistical methods.