

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission
for
Rule 17a-11 – Notification Provisions for Brokers and
Dealers
OMB Control No. 3235-0085
Partial Revision

A. JUSTIFICATION

1. Information Collection Necessity

In response to an operational crisis in the securities industry between 1967 and 1970, the Securities and Exchange Commission (“Commission”) adopted Rule 17a-11 (17 CFR 240.17a-11) under the Securities Exchange Act of 1934 (“Exchange Act”) on July 11, 1971. The Rule requires broker-dealers that are experiencing financial or operational difficulties to provide notice to the Commission, the broker-dealer’s designated examining authority (“DEA”) and the Commodity Futures Trading Commission (“CFTC”) if the broker-dealer is registered with the CFTC as a futures commission merchant. Rule 17a-11 is an integral part of the Commission’s financial responsibility program, which enables the Commission, a broker-dealer’s DEA and the CFTC to increase surveillance of a broker-dealer experiencing difficulties and to obtain any additional information necessary to gauge the broker-dealer’s financial or operational condition.

A broker-dealer must notify the Commission, its DEA and, if the broker-dealer is registered as a futures commission merchant, the CFTC under Rule 17a-11 if certain circumstances arise. For example, under Rule 17a-11, a broker-dealer must give notice of certain occurrences related to its net capital, such as its net capital declining below certain levels. Similarly, Rule 17a-11 also requires over-the-counter (“OTC”) derivatives dealers and broker-dealers that are permitted to compute net capital pursuant to Appendix E to Exchange Act Rule 15c3-1 (17 CFR 240.15c3-1e) to give notice when their tentative net capital drops below certain levels. A broker-dealer must also provide notice if it has failed to make and keep certain books and records and when it discovers or is notified by an independent public accountant of the existence of a material inadequacy. To ensure the provision of these types of notices to the Commission, paragraph (f) of Rule 17a-11 requires every national securities exchange or national securities association to notify the Commission when it learns that a member broker-dealer has failed to send a notice or transmit a report required under the Rule.

The Commission is statutorily authorized to promulgate Rule 17a-11 under Sections 15(c)(3) and 17(a) of the Exchange Act (15 U.S.C. 78o(c)(3) et seq. and 15 U.S.C. 78q(a) et seq.). These sections authorize the Commission to provide safeguards with respect to financial responsibility and to request that such records be made and kept as are necessary or appropriate in the public interest. Further statutory authority is found in Section 23(a) of the Act (15 U.S.C. 78w(a) et seq.).

Partial Revision to the Collection of Information

As discussed further below, the Commission adopted amendments to Rule 17a-3 in 2019 pursuant to authority in the Dodd-Frank Act. The 2019 amendments are not required to be complied with until October 6, 2021 and this partial revision provides new or updated burden estimates in connection with the 2019 rule amendments.

On September 19, 2019, the Commission adopted amendments to its recordkeeping and reporting rules for broker-dealers as well as new recordkeeping and reporting rules (the “SBS Recordkeeping Release”)¹ for security-based swap dealers (“SBSDs”) and major security-based swap participants (“MSBSPs”) pursuant to its authority in sections 17(a) and 15F(f) of the Exchange Act.² More specifically, Rule 17a-11, as amended, imposes collection of information requirements that result in annual time burdens for broker-dealers, broker-dealer SBSDs, and broker-dealer MSBSPs.³ The Commission amended Rule 17a-11 to require, among other things, that broker-dealer SBSDs notify the Commission if they fail to make a deposit required under paragraph (p) of Rule 15c3-3,⁴ and that a broker dealer’s national securities exchange (“NSE”) or national securities association (“NSA”) notify the Commission if it learns that the broker-dealer failed to provide a notice required under any paragraph of Rule 17a-11 (instead of just the notification provisions in paragraphs (a) through (e) of 17a-11, as amended).⁵

In October 2020, the Commission submitted a request for an extension for the currently approved collection. The request for extension was approved in December 2020.⁶

This Supporting Statement summarizes the burdens associated with the amendments to Rule 17a-11 adopted in September 2019. The burdens reviewed and approved in December 2020 have not changed.

2. Information Collection Purpose and Use

The information obtained under Rule 17a-11 is used to monitor the financial and operational condition of a broker-dealer, a including broker-dealer SBSD and broker-dealer MSBSP, by the Commission staff, by the broker-dealer’s DEA and, if applicable, by the CFTC. This information alerts the Commission, the DEA and the CFTC of the need to increase

¹ See *Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Final Rule*, Exchange Act Release No. 87005 (Sep. 19, 2019, 84 FR 68550 (Dec. 16, 2019)).

² Section 764 of the Dodd-Frank Wall Street Reform and Consumer Protection Act added section 15F to the Exchange Act. See Public Law 111-203, § 764; 15 U.S.C. 78o-10. Section 15F(f)(2) provides that the Commission shall adopt rules governing reporting and recordkeeping for SBSDs and MSBSPs. See 15 U.S.C. 78o-10(f)(2).

³ See *Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Final Rule*, Exchange Act Release No. 87005 (Sep. 19, 2019), 84 FR 68550 (Dec. 16, 2019).

⁴ See paragraph (f) of Rule 17a-11, as amended.

⁵ See paragraph (g) of Rule 17a-11, as amended.

⁶ See https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202007-3235-019.

surveillance of the broker-dealer's financial and operational condition and to assist the broker-dealer to comply with the Commission's rules. No similar information is already available to use or modify for purposes of complying with Rule 17a-11 because the disclosures required by the rule are unobtainable until the early warning mechanisms are triggered. Only the most up-to-date information will help the Commission, DEAs and the CFTC to monitor broker-dealers, including broker-dealer SBSs and broker-dealer MSBSs, experiencing financial or operational difficulties.

The monthly report related to the broker-dealer's securities borrowed and loaned or securities repurchase/reverse repurchase activity may be filed by a broker-dealer in lieu of the filing of the required notice under Rule 17a-11(c)(5). The monthly report is designed to enhance the monitoring of these securities activities by securities regulators.

3. Consideration Given to Information Technology

Broker-dealers required to provide notice under Rule 17a-11 may give or transmit such notice by telegraphic notice or facsimile transmission. Reports required by Rule 17a-11 may be transmitted by overnight delivery. Certain DEAs have developed systems that enable them to receive these notices electronically.

4. Duplication

Duplication of information is not a concern because the reporting requirements are only applicable to those broker-dealers triggering the early warning mechanisms of Rule 17a-11.

5. Effect on Small Entities

To the extent that some broker-dealers that are required to give notice under the Rule are small entities, the Rule will impact these entities. However, information is collected from small registered broker-dealers only when they are required to provide notice under the Rule. Additionally, small broker-dealers are not expected to be affected by the SBS Recordkeeping Release's amendments to Rule 17a-11.

6. Consequences of Not Conducting Collection

Only broker-dealers, including broker-dealer SBSs and broker-dealer MSBSs, having financial or operational problems must give notice under the Rule. Less frequent notification would result in the Commission, SROs and the CFTC not receiving notification of broker-dealers' financial or operational problems. To the extent that some broker-dealers that are required to give notice under this rule are small entities, Rule 17a-11 will impact these entities. However, information is collected from small registered broker-dealers only when they are required to provide notice under Rule 17a-11.

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

There are no special circumstances. This collection is consistent with the guidelines in 5

CFR 1320.5(d)(2).

8. Consultations Outside the Agency

The Commission requested comment on the collection of information requirements in the 2019 Amendments when they were proposed in April 2014.⁷ No comments were received regarding the estimated burdens associated with the amendments to Rule 17a-11. The proposed revisions to the collection of information was submitted to OMB in 2016 (ICR Ref. No. 201608-3235-004).

9. Payment or Gift

No gifts or payments are provided to respondents.

10. Confidentiality

The Commission will generally not publish or make available to any person notices or reports received pursuant to Rule 17a-11. The Commission believes that information obtained under Rule 17a-11 relates to a condition report prepared for the use of the Commission, other federal governmental authorities and securities industry SROs responsible for the regulation or supervision of financial institutions.

11. Sensitive Questions

Personally Identifiable Information (“PII”) is stored by the Commission on the Division of Trading and Market’s SharePoint site, which is covered by the existing 2012 Collaboration SharePoint (“CSP”) PIA pursuant Section 208 of the E-Government Act of 2002. As information will not be retrieved by a personal identifier, the system does not constitute a system of records and a SORN is not required.

12. Information Collection Burden

Currently Approved Burdens

This section describes the burdens that were previously reviewed and approved in connection with a request for an extension.⁸

In 2019, the Commission received 343 notices from broker-dealers, which includes OTC derivatives dealers and broker-dealers that compute net capital pursuant to Appendix E. The Commission estimates receiving a similar number of notices from broker-dealers each year over the next three years and that it will take approximately one hour to prepare and transmit each

⁷ See *Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Capital Rule for Certain Security-Based Swap Dealers; Proposed Rule*, Exchange Act Release No. 71958 (Apr. 17, 2014), 79 FR 25193 (May 2, 2014).

⁸ See https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202007-3235-019.

notice. **Accordingly, the total estimated annualized burden under Rule 17a-11 is 343 hours.**⁹

There are 24 national securities exchanges and national securities associations.¹⁰ The Commission receives between six and eleven Rule 17a-11 notices from national securities exchanges/associations each year. Therefore, the Commission estimates that it will receive eleven notices from them each year notifying it that a member broker-dealer has failed to send the Commission a notice or transmit a report required under the Rule. The Commission estimates it will take approximately one hour preparing and transmitting each notice. **Accordingly, the total estimated annualized burden under Rule 17a-11 is eleven hours.**¹¹

Paragraph (c)(5) of Rule 17a-11 requires broker-dealers engaged in securities lending or repurchase activities to either: (1) file a notice with the Commission and their DEA whenever the total money payable against all securities loaned, subject to a reverse repurchase agreement or the contract value of all securities borrowed or subject to a repurchase agreement, exceeds 2,500% of tentative net capital; or, alternatively, (2) report monthly their securities lending and repurchase activities to their DEA in a form acceptable to their DEA.

The Commission estimates that, annually, six broker-dealers will submit the monthly stock loan/borrow report. The Commission estimates each firm will spend, on average, approximately one hour per month (or twelve hours per year) of employee resources to prepare and send the report or to prepare the information for the FOCUS report (as required by the firm's DEA, if applicable). **Therefore, the Commission estimates the total annual reporting burden arising from this section of the amendment will be approximately 72 hours.**¹²

The total annual reporting burden associated with Rule 17a-11 currently approved is approximately 426 hours.¹³

Summary of Hourly Burdens					
Name of Information Collection	Type of Burden	Number of Entities Impacted	Annual Responses per Entity	Ongoing Burden per Entity per Response	Total Industry Burden
Rule 17a-11(a)-(e) – Notification Provisions for Broker and Dealers	Reporting	343	1	1.00	343.00
Rule 17a-11(g) – Notices Filed by Exchanges and National Securities Associations	Reporting	11	1	1.00	11.00
Rule 17a-11(b)(5) – Monthly Stock Loan/Borrow Reports	Reporting	6	12	1.00	72.00

⁹ 343 notices x 1 hour per notice = 343 hours.

¹⁰ See SEC, National Securities Exchanges, available at <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

¹¹ 11 notices x 1 hour per notice = 11 hours.

¹² 6 broker-dealers x 12 hours per year = 72 hours.

¹³ 343 hours + 11 hours + 72 hours = 426 hours.

TOTAL HOURLY BURDEN FOR ALL RESPONDENTS	426.00
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PARTIAL REVISION: New Burdens Associated with Amendments to Rule 17a-11

This section describes the new burdens associated with amendments to Rule 17a-11 related to security-based swap activities that were adopted in September 2019.¹⁴

Rule 17a-11(f) – Notice of Failure to Deposit in Rule 15c3-3(p) Account: The Commission added paragraph (f) to Rule 17a-11, requiring broker-dealers engaged in security-based swap activities to notify the Commission if they fail to make a deposit required under paragraph (p) of Rule 15c3-3.¹⁵ Because the burden to calculate the reserve amount is already accounted for in the Paperwork Reduction Act estimate for Rule 15c3-3,¹⁶ the burden imposed by paragraph (f) of Rule 17a-11, as amended, is the requirement to notify the Commission when the firm fails to act in accordance with paragraph (p) of Rule 15c3-3. Given the similarity in the rules, the Commission estimates that each required notice will take one hour to prepare and file. Based on Commission experience with the number of notices filed under current Rule 17a-11, the Commission estimates that 100 notices will be filed each year under paragraph (f) of Rule 17a-11, as amended, resulting in an estimated industry-wide **ongoing annual burden of 100 hours per year.**¹⁷

Rule 17a-11(g) – Notices Filed by National Securities Exchanges and Associations: In adopting amendments to Rule 17a-11(g), the Commission redesignated paragraph (f) of Rule 17a-11 as paragraph (g), and required a broker-dealer’s national securities exchange (“NSE”) or national securities association (“NSA”) to notify the Commission if it learns that the broker-dealer failed to provide a notice required under any paragraph of Rule 17a-11, as amended (instead of just paragraphs (b) through (e) of Rule 17a-11, as they existed prior the amendments).¹⁸ Thus, NSEs and NSAs are subject to new burdens to file a delinquent broker-dealer’s notices under paragraph (f) of Rule 17a-11, as amended (i.e., failure to deposit in Rule 15c3-3(p) account). After considering similar Rule 17a-11 requirements, the Commission estimates that each required notice will take one hour to prepare and file. Based on Commission experience with the number of notices currently filed by NSEs and NSAs, the Commission estimates that five notices will be filed pursuant to paragraph (g) of Rule 17a-11, as amended, resulting in an estimated industry-wide **ongoing annual burden of five hours per year.**¹⁹

¹⁴ See *Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Final Rule*, Exchange Act Release No. 87005 (Sep. 19, 2019, 84 FR 68550 (Dec. 16, 2019)).

¹⁵ See paragraph (f) of Rule 17a-11, as amended.

¹⁶ See *Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers; Final Rule*, Exchange Act Release No. 34-86175 (Jun. 21, 2019), 84 FR 43872 (Aug. 22, 2019).

¹⁷ 100 notices x 1 hour per notice = 100 hours.

¹⁸ See paragraph (g) of Rule 17a-11, as amended.

¹⁹ 5 notices x 1 hour per notice = 5 hours.

Summary of Hourly Burdens					
Name of Information Collection	Type of Burden	Number of Entities Impacted	Annual Responses per Entity	Ongoing Burden per Entity per Response	Total Industry Burden
Rule 17a-11(f) – Notice of Failure to Deposit in Rule 15c3-3(p) Account	Reporting	100	1	1.00	100
Rule 17a-11(g) – Notices Filed by National Securities Exchanges and Associations	Reporting	5	1	1.00	5
TOTAL HOURLY BURDEN FOR ALL RESPONDENTS					105.00

As a result of these amendments, the total hourly burden associated with Rule 17a-11 would increase from the currently approved burden of 426 hours by an additional 105 hours, **for a revised hourly burden of 531 hours.**

13. Costs to Respondents

The Rule does not impose any costs other than labor costs associated with the burden described in Item 12 above.

14. Costs to Federal Government

The annual operational costs incurred by the federal government in enforcing compliance and reviewing the notices required by Rule 17a-11 amount to approximately \$8,132. The staff estimates that reviewing these notices requires, on average, approximately fifteen minutes of Regulation Specialist staff time per filing at approximately \$76 an hour. Consequently, the staff estimates that the additional cost to the Federal Government associated with reviewing approximately 426 such notices per year would be \$8,132 (107 hours x \$76).

15. Changes in Burden

The burdens associated with paragraph were changed from the proposing stage for two reasons. First, the burden associated with Rule 17a-11(g) was reduced because of a revision in the estimated responses that the Commission will receive per year in connection with the requirements of paragraph (g). The Commission initially estimated that 10 notices would be filed each year. In adopting these amendments, the Commission revised the number of notices to 5. Consequently, the estimated burden associated with Rule 17a-11(g), as amended, was reduced from 10 hours to 5 hours.

Second, the Commission's originally proposal included paragraph (e) of Rule 17a-11, which would have required alternative net capital broker-dealers to notify the Commission if a required monthly liquidity stress test indicated the firm's liquidity reserve was insufficient. However, the Commission did not adopt this provision as it did not adopt the underlying liquidity stress test and liquidity reserve requirements. As a result, there is no longer an estimated burden with respect to paragraph (e) of Rule 17a-11.

These changes are summarized in the following table:

Changes in Hourly Burden				
Name of Information Collection	Estimated Industry Burden at Adopting Stage	Annual Industry Burden Previously Reviewed at Proposing Stage	Change in Burden	Reason for Change
Rule 17a-11(g) – Notices Filed by National Securities Exchanges and Associations	5 per year	10 hours per year	(5)	The Commission revised the estimate downward after further consideration
Rule 17a-11(e) – Notice of Insufficient Liquidity Reserve	0	1 hour per year	(1)	This estimated burdens relates to a provision that was proposed but was not adopted as part of the final rules. As a result, there is no burden associated with this provision.

As noted above the estimated total burden hours associated with Rule 17a-11 has increased as a result of the amendments to Rule 17a-11 adopted by the Commission. After adding the 105 burden hours associated the amendments to Rule 17a-11 to the currently approved 426 burden hours, the revised burden hour estimate for Rule 17a-11 has increased to 531 hours. This change is summarized in the table below:

Changes in Hourly Burden				
Rule	Estimated Industry Burden at after amendments to Rule 17a-11	Annual Industry Burden Currently Approved	Change in Burden	Reason for Change
Rule 17a-11	531 hours	426 hours	105 hours	Amendments to Rule 17a-11 related to security-based swap activities

16. Information Collection Planned for Statistical Purposes

Not applicable. The information collection is not used for statistical purposes.

17. Approval to Omit OMB Expiration Date

The Commission is not seeking approval to omit the expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

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

This collection does not involve statistical methods.