



SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From:
Securities and Exchange Commission
Office of Investor Education and Advocacy
Washington, DC 20549-0213

Extension: Rule 301 and Forms ATS and ATS-R

SEC File No. 270-451, OMB Control No. 3235-0509

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for extension of the previously approved collection of information discussed below.

Regulation ATS provides a regulatory structure for alternative trading systems. Regulation ATS allows an alternative trading system to choose between registering as a broker-dealer and complying with Regulation ATS, or registering as a national securities exchange. Regulation ATS provides the regulatory framework for those alternative trading systems that choose to be regulated as broker-dealers. Rule 301 of Regulation ATS contains certain notice and reporting requirements, as well as additional obligations that apply only to alternative trading systems with significant volume. The Rule requires all alternative trading systems that wish to comply with Regulation ATS to file an initial operation report on Form ATS. The initial operation report requires information regarding operation of the system including the method of operation, access criteria and the types of securities traded. Alternative trading systems are also

required to supply updates on Form ATS to the Commission, describing material changes to the system, and quarterly transaction reports on Form ATS-R. Alternative trading systems are also required to file cessation of operations reports on Form ATS.

An alternative trading system with significant volume is required to comply with requirements for fair access and systems capacity, integrity, and security. Under Rule 301, such alternative trading system is required to establish written standards for granting access to its system. In addition, such alternative trading system is required to make and keep records of all grants of access including, for all subscribers, the reasons for granting such access, and all denials or limitations of access and reasons, for each applicant, for denying or limiting access. Regulation ATS requires alternative trading systems to preserve any records made in the process of complying with the capacity, integrity, and security requirements. In addition, such alternative trading systems are required to notify Commission staff of material systems outages and significant systems changes.

The Commission uses the information provided pursuant to the Regulation ATS to monitor the growth and development of alternative trading systems, and to monitor whether the systems promote fair and orderly securities markets and operate in a manner that is consistent with the federal securities laws. In particular, the information collected and reported to the Commission by alternative trading systems enables the Commission to evaluate the operation of alternative trading systems with regard to national market system goals, and monitor the competitive effects of these systems to ascertain whether the regulatory framework remains appropriate to the operation of such systems. Without the information provided on Forms ATS and ATS-R, the Commission would not have readily available information on a regular basis in a format that would allow it to oversee the securities markets.

Respondents consist of alternative trading systems that choose to register as broker-dealers and comply with the requirements of Regulation ATS. The Commission estimates that there will be approximately 95 respondents.

An estimated 95 respondents will file an average total of 598 responses per year, which corresponds to an estimated aggregated annual response burden of 2,872.50 hours (comprised of 2,156 hours professional labor and 716.5 hours para-professional labor). At an average cost per burden hour of approximately \$379 for professional labor and \$63 for para-professional labor, the resultant total related cost of compliance for these respondents is \$862,263.50 per year ((2,156 professional burden hours multiplied by \$379 = \$817,124) plus (716.5 para-professional burden hours multiplied by \$63 = \$45,139.50).

An estimated 7 respondents will commence operations as an ATS each year, necessitating the filing of an initial operation report on Form ATS. The Commission estimates that the average compliance burden for each respondent would be 20 hours, comprising 13 hours of in-house professional work and 7 hours of clerical work. Thus, the total compliance burden per year is 140 hours (7 responses x 20 hours = 140 hours). The total cost of compliance for the annual burden is \$37,576 (\$379 x 13 hours per response + \$63 x 7 hours per response = \$5,368 per response; \$5,368 x 7 responses = \$37,576).

An estimated 95 respondents will file an estimated two periodic amendments to their initial operation report on Form ATS each year, an estimated total of 190 amendments. The Commission estimates that the average compliance burden for each amendment would be 6 hours, comprising 4.5 hours of in-house professional work and 1.5 hours of clerical work. Thus, the total compliance burden per year is 1,140 hours (190 responses x 6 hours = 1,140 hours). The total cost of

compliance for the annual burden is \$342,000 ($\379×4.5 hours per response + $\$63 \times 1.5$ hours per response = $\$1,800$ per response; $\$1,800 \times 190$ responses = $\$342,000$).

An estimated 95 respondents will file four quarterly reports on Form ATS-R each year for an estimated total of 380 responses. The Commission estimates that the average compliance burden for each filing would be 4 hours, comprising 3 hours of in-house professional work and 1 hour of clerical work. Thus, the total compliance burden per year is 1,520 hours (380 responses $\times 4$ hours = $1,520$ hours). The total cost of compliance for the annual burden is \$456,000 ($\379×3 hours per response + $\$63 \times 1$ hours per response = $\$1,200$ per response; $\$1,200 \times 380$ responses = $\$456,000$).

An estimated 5 respondents will be required to file a cessation of operations report on Form ATS each year. The Commission estimates that the average compliance burden for each response would be 2 hours, comprising 1.5 hours of in-house professional work and 0.5 hours of clerical work. Thus, the total compliance burden per year is 10 hours (5 responses $\times 2$ hours = 10 hours). The total cost of compliance for the annual burden is \$3,000 ($\379×1.5 hours per response + $\$63 \times 0.5$ hours per response = $\$600$ per response; $\$600 \times 5$ responses = $\$3,000$).

An estimated 2 respondents will meet certain volume thresholds requiring them to establish written standards for granting access to their systems. The Commission estimates that the average compliance burden for each response would be 10 hours of in-house professional work at \$379 per hour. Thus, the total compliance burden per year is 20 hours (2 responses $\times 10$ hours = 20 hours). The total cost of compliance for the annual burden is \$7,580 ($\379×10 hours per response $\times 2$ responses = $\$7,580$).

An estimated 2 respondents will meet certain volume thresholds requiring them to make and keep records of (1) all grants of access including, for all subscribers, the reasons for granting such

access; and (2) all denials or limitations of access and reasons, for each applicant, for denying or limiting access. The Commission estimates that the average compliance burden for each response would be 10 hours of in-house professional work at \$379 per hour. Thus, the total compliance burden per year is 20 hours (2 respondents x 10 hours = 20 hours). The total cost of compliance for the annual burden is \$7,580 ($\$379 \times 10 \text{ hours per response} \times 2 \text{ respondents} = \$7,580$).

An estimated 2 respondents will meet certain volume thresholds requiring them to keep records relating to any steps taken to comply with systems capacity, integrity, and security requirements under Rule 301. The Commission estimates that the average compliance burden for each response would be 10 hours of in-house professional work at \$379 per hour. Thus, the total compliance burden per year is 20 hours (2 respondents x 10 hours = 20 hours). The total cost of compliance for the annual burden is \$7,580 ($\$379 \times 10 \text{ hours per response} \times 2 \text{ respondents} = \$7,580$).

An estimated 2 respondents will meet certain volume thresholds requiring them to provide a notice to the Commission to report any system outages, and these notice obligations will be triggered an estimated 5 times per year for each respondent. The Commission estimates that the average compliance burden for each response would be 0.25 hours of in-house professional work at \$379 per hour. Thus, the total compliance burden per year is 2.5 hours (2 respondents x 5 responses each x 0.25 hours = 2.5 hours). The total cost of compliance for the annual burden is 947.50 ($\$379 \times 0.25 \text{ hours per response} \times 10 \text{ responses} = \947.50).

Compliance with Rule 301 is mandatory. The information required by the Rule 301 is available only to the examination of the Commission staff, state securities authorities, and the SROs. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. § 522 (“FOIA”), and the Commission’s rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally

publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

Regulation ATS requires alternative trading systems to preserve any records, for at least three years, made in the process of complying with the systems capacity, integrity, and security requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: Shagufta_Ahmed@omb.eop.gov; and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street, NE, Washington, DC 20549, or by sending an e-mail to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: January 28, 2014.

Kevin M. O'Neill,
Deputy Secretary.