



## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-667, OMB Control No. 3235-0745]

### **Proposed Collection; Comment Request; Extension: Rule 18a-5**

Upon Written Request, Copies Available From:

Securities and Exchange Commission

Office of FOIA Services

100 F Street, NE

Washington, DC 20549-2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (“PRA”) (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the existing collection of information provided for in Rule 18a-5, under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Rule 18a-5 enumerates the recordkeeping and reporting requirements for security-based swap dealers (“SBSDs”) and major security-based swap participants (“MSBSPs”). More specifically, Rule 18a-5 establishes recordkeeping requirements applicable to stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs. Rule 18a-5 was modeled on Rule 17a-3 under the Exchange Act, which applies to broker-dealers, but Rule 18a-5 does not include a parallel requirement for every requirement in Rule 17a-3 because some of the requirements in Rule 17a-3 relate to activities that are not expected or permitted of SBSDs and MSBSPs. The collections of information under Rule 18a-5 include the following types of records that are required to be created: trade blotters, general ledger, ledgers for customers and non-customer accounts, stock record, memoranda of brokerage orders, memoranda of proprietary orders, confirmations, accountholder information, options positions, trial balances and

computation of net capital, associated person's employment application, account equity and margin calculations under Rule 18a-3, possession or control requirements for security-based swap customers, customer reserve requirements for security-based swap customers, unverified transactions, political contributions, and compliance with business conduct requirements. The purpose of requiring stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs to create the records specified in Rule 18a-5 is to enhance regulators' ability to protect investors. These records and the information contained therein are used by examiners and other representatives of the Commission to determine whether stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs are in compliance with the Commission's anti-fraud and anti-manipulation rules, financial responsibility program, and other laws, rules, and regulations.

Not all types of records enumerated in Rule 18a-5 are required to be made by each of the entities to which Rule 18a-5 applies. For example, Rule 18a-5 requires thirteen types of records to be made and kept current by stand-alone SBSDs and stand-alone MSBSPs.<sup>1</sup> Rule 18a-5 also requires three types of records to be made and kept current by stand-alone SBSDs.<sup>2</sup> Rule 18a-5 requires 10 types of records to be made and kept current by bank SBSDs and bank MSBSPs, all of which are limited to the firm's business as an SBSD or MSBSP.<sup>3</sup> Further, Rule 18a-5

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<sup>1</sup> See Rule 18a-5 (paragraph (a)(1) (trade blotters); paragraph (a)(2) (general ledgers); paragraph (a)(3) (ledgers of customer and non-customer accounts); paragraph (a)(4) (stock record); paragraph (a)(5) (memoranda of proprietary orders); paragraph (a)(6) (confirmations); paragraph (a)(7) (account holder information); paragraph (a)(8) (options positions); paragraph (a)(9) (trial balances and computation of net capital); paragraph (a)(10) (associated person's application); paragraph (a)(12) (Rule 18a-3 calculations); paragraph (a)(15) (unverified transactions); paragraph (a)(17) (compliance with business conduct standards)).

<sup>2</sup> See Rule 18a-5 (paragraph (a)(13) (compliance with Rule 18a-4 possession or control requirements); paragraph (a)(14) (Rule 18a-4 reserve account computations); and paragraph (a)(16) (political contributions)).

<sup>3</sup> See Rule 18a-5 (paragraph (b)(1) (trade blotters); paragraph (b)(2) (general ledgers); paragraph (b)(3) (stock record); paragraph (b)(4) (memoranda of brokerage orders); paragraph (b)(5) (memoranda of proprietary orders); paragraph (b)(6) (confirmations); paragraph (b)(7) (account holder information); paragraph (b)(8) (associated person's application); paragraph (b)(11) (unverified transactions); and paragraph (b)(13) (compliance with business conduct requirements)).

includes paragraphs (b)(9), (b)(10), and (b)(12) which requires bank SBSBs to make and keep current various records for security-based swaps.<sup>4</sup>

As of November 30, 2023, there are 11 stand-alone SBSBs, zero stand-alone MSBSPs, 29 bank SBSBs, and zero bank MSBSPs registered with the Commission. The Commission estimates that each recordkeeping provision of Rule 18a-5 imposes on each firm that is subject to the provision an initial burden and an ongoing annual burden. The total initial industry hour burden attributable to Rule 18a-5 is estimated to be 11,060 hours in the first year and the total industry ongoing hour burden attributable to Rule 18a-5 is estimated to be 13,825 hours per year (including the first year). Over a three-year period, the total estimated industry burden is estimated to be 52,535 hours, or about 17,511 hours per year when annualized. These burdens are recordkeeping burdens.

In addition, the Commission estimates that Rule 18a-5 causes a stand-alone SBSB or stand-alone MSBSP to incur an initial dollar cost of approximately \$1,000 to purchase recordkeeping system software and an ongoing dollar cost of \$4,650 per year to provide adequate physical space and computer hardware and software for storage. As of November 30, 2023, there are 11 respondents (11 stand-alone SBSBs and zero stand-alone MSBSPs), resulting in an estimated industry-wide initial burden of \$11,000 and an industry-wide ongoing burden of \$51,150 per year. Over a three-year period, the total estimated industry burden would be \$164,450, or about \$54,817 per year when annualized.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of

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<sup>4</sup> See Rule 18a-5 (paragraph (b)(9) (possession or control requirements under Rule 18a-4); paragraph (b)(10) (customer reserve requirements under Rule 18a-4); and paragraph (b)(12) (political contributions)).

information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street, NE, Washington, DC 20549, or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: January 10, 2024.

**Sherry R. Haywood**

*Assistant Secretary.*

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