

recordkeeping, safeguarding, and destruction procedures will greatly reduce the risk of improper use of cancelled certificates. Therefore, we do not believe it is necessary at this time to mandate destruction.

In this regard, we note that cancelled securities certificates, after a period in transfer agent storage, are generally destroyed by the transfer agent or destroyed by some other party at the direction of the transfer agent or the issuer. However, a small amount of cancelled securities certificates find their way from transfer agents into collectors' markets. Accordingly, to make the rule as complete as possible, we are modifying proposed Rule 17Ad-19 to require that transfer agents maintain records not only of the certificates that they or their agents destroy but also of those certificates that they dispose of by any other means, such as by sale to collectors or to dealers for collectors. For certificates disposed of by such other means, transfer agents are required to maintain records of how the certificates were disposed and to whom, with such party's name and address, and the date of disposition.

7. Destruction of Certificates by Transfer Agents

One transfer agent, PFPC Inc., recommended that questions of certificate retention or destruction be discretionary matters for individual transfer agents, and that transfer agents be given the option to destroy certificates within 72 hours of their cancellation, which it said would reduce fraud and storage expenses. Another transfer agent, Otter Tail, took a different position and said that the Commission should mandate certificate destruction at the end of the required six-year retention period. ICI and Mellon recommended that the Commission explore new overall requirements for cancelled securities certificates including (1) the use of electronic media and microfiche for recordkeeping purposes, and (2) the destruction of cancelled certificates, perhaps after they are scanned, imaged, and electronically stored.⁵⁶ As noted above in footnote 6, the Commission is proposing amendments to Exchange Act Rule 17Ad-7, 17 CFR 240.17Ad-7, which if adopted would make clear that transfer agents could use certain alternative means to store cancelled securities certificates provided that the cancelled certificates first were

electronically preserved in conformity with the terms of that rule.

IV. Paperwork Reduction Act

Certain provisions of the proposed rule and proposed amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").⁵⁷ The Commission published a notice soliciting comments on the collection of information requirements in the proposing release and submitted them to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for the collection of information is: "Record Retention Requirements for Registered Transfer Agents." OMB approved the collection and assigned it OMB Control No. 3235-0136. The collection requirements are necessary to ensure the integrity of transfer agents' records and the safeguarding of securities certificates.

Rule 17Ad-19 contains collection of information requirements that are intended to ensure the integrity and completeness of transfer agents' records regarding physical securities certificates, in particular, cancelled securities certificates. Rule 17Ad-19 requires each registered transfer agent to: (1) Have a written statement setting forth its procedures for the cancellation, storage, transportation, destruction, or other disposition of securities certificates; (2) mark each cancelled certificate with the word "cancelled" on the face of the certificate; (3) supervise, witness and document the destruction of certificates; and (4) keep an easily retrievable record of each cancelled, destroyed, or otherwise disposed of certificate with identifying certificate data. The amendments to Rules 17f-1 and 17Ad-12 involve no additional paperwork requirements.

Rule 17Ad-19 incorporates the three-year record retention requirement of Rule 17Ad-7(i), but the amendments to Rules 17f-1 and 17Ad-12 do not add any retention periods for recordkeeping requirements. The maintenance of written procedures by transfer agents under Rule 17Ad-19 would be mandatory. The written procedures are confidential and will not be available to the public, although they will be subject to examination by the Commission or other appropriate regulatory agencies. We note that 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 control number.

When the Commission proposed the rule and rule amendment, approximately 1,100 transfer agents were registered with the Commission. The Commission staff estimated that the average amount of time per transfer agent needed to comply with the collection of information requirements of proposed Rule 17Ad-19 would be 40 hours per transfer agent for developing the written procedures. The Commission staff further estimated that the average amount of time per transfer agent per year to comply with the collection of information associated with recording and tracking cancelled securities certificates would be 50 hours per transfer agent per year, a figure that would vary greatly depending on the size of an entity and the volume of its business. Thus, assuming 1,100 registered transfer agents, it was estimated that the start-up collection of information requirements would require about 44,000 hours ($40 \times 1,100$), and the annual collection of information requirements would be about 55,000 hours ($50 \times 1,100$). Thus, in October of 2000, the Commission staff estimated that the combined total during the first year would be about 99,000 hours.

At this time, in contrast with the 1,100 transfer agents at the proposing stage, approximately 900 transfer agents are registered with the Commission, of which about 800 are actively involved in transfer agent activities.⁵⁸ After further review and staff conversations with representative transfer agents, as discussed below in Section V, the Commission staff has lowered its estimate of the amount of time per transfer agent needed to comply with the collection of information requirements of Rule 17Ad-19. The lower staff estimates, as compared with the higher estimates in the Proposing Release, result from (1) lower than anticipated cost estimates in a survey of small transfer agents and (2) reports from both small transfer agents and large transfer agents (the latter group as represented by the Securities Transfer Association) that most of the proposed rule changes have already been put into effect over the past few years at most transfer agents. The Commission staff now estimates the time needed will range from about two hours for the smallest transfer agents to about 40 hours for the largest transfer agents. The staff believes that the average time per transfer agent to develop written

⁵⁶ For a recent Commission rule that authorized the use of optical storage, refer to 15 CFR 240.17Ad-7(f). See Securities Exchange Act Release No. 44227 (April 27, 2001), 66 FR 21648 (May 1, 2001).

⁵⁷ 44 U.S.C. 3501 *et seq.*

⁵⁸ The Commission notes that there is relative ease of entrance into and exit out of the transfer agent business, and the numbers of transfer agents at a given time are affected by the circumstances of the securities industry and the general economy.