

material exceptions resulting from such testing that are unresolved as of the reporting date; and

(6) Implementation of tested software that will address Year 2000 Problems.

(E) Does the broker or dealer have written contingency plans in the event, that after December 31, 1999, it has problems caused by Year 2000 Problems?

(F) What levels of management of the broker or dealer are responsible for addressing potential problems caused by Year 2000 Problems? Provide a description of the responsibilities for each level of management regarding the Year 2000 Problems.

(G) Provide any additional material information concerning the broker's or dealer's management of Year 2000 Problems that will help the Commission and the designated examining authorities assess the readiness of the broker or dealer for the Year 2000.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-40163; File No. S7-8-98]

RIN 3235-AH42

Year 2000 Readiness Reports To Be Made by Certain Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is adopting Rule 17Ad-18 under the Securities Exchange Act of 1934 ("Exchange Act") to require certain transfer agents to file with the Commission two reports regarding their Year 2000 compliance. The reports will increase transfer agent awareness of the specific steps they should be taking to prepare for the Year 2000; help coordinate industry testing and contingency planning; supplement the Commission's examination module for Year 2000 issues and identify potential Year 2000 compliance problems; and provide information regarding the securities industry's preparedness for the Year 2000. The reports are designed to be available to the public, which will enable issuers and other parties to assess the risks of doing business with

a transfer agent that may not be Year 2000 compliant.

EFFECTIVE DATE: August 12, 1998.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, 202/942-4187; Thomas C. Etter, Jr., Special Counsel, 202/942-0178; or Jeffrey Mooney, Special Counsel, 202/942-4174, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 10-1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

At midnight on December 31, 1999, unless the proper modifications have been made, the program logic in many of the vast majority of the world's computer systems will start to produce erroneous results because, among other things, the systems will incorrectly read the date "01/01/00" as being January 1 of the year 1900 or another incorrect date. In addition, systems may fail to detect that the Year 2000 is a leap year. Problems also can arise earlier than January 1, 2000, as dates in the next millennium are entered into non-Year 2000 compliant programs. Year 2000 Problems could have negative repercussions throughout the world's financial systems because of the extensive interrelationship and information sharing between U.S. and foreign financial firms and markets.¹

¹ International Organization of Securities Commissions, *Statement of the IOSCO Technical Committee on Year 2000* (1997), available at <http://www.iosco.org>.

The Commission views the Year 2000 problem as an extremely serious issue. A failure to assess properly the extent of the problem, remediate systems that are not Year 2000 compliant, and then test those systems could endanger the nation's capital markets and place at risk the assets of millions of investors. In light of this, both transfer agents and the Commission are working hard to address the industry's Year 2000 Problems.

As part of its ongoing efforts relating to the Year 2000 on March 5, 1998, the Commission requested comment on proposed Rule 17Ad-18 that would require transfer agents to file at least one report with the Commission regarding its Year 2000 compliance.² The proposed rule noted that transfer agents present special considerations for the Commission because unlike other entities regulated under the Exchange Act transfer agents have no self-regulatory organization ("SRO") to assist them and the Commission in addressing Year 2000 issues.³ Therefore, the Commission's only information from non-bank transfer agents is directly from the transfer agent themselves.

The Commission received 26 comment letters in response to the proposed rule.⁴ The majority of the

² Release No. 34-39726, (March 5, 1998), 63 FR 12062 (March 12, 1998).

³ SRO is defined in Section 3(a)(26) of the Exchange Act, 15 U.S.C. 78c(a)(26).

⁴ All comment letters and a summary of the comments are available in File No. S7-8-98 at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. The comment period closed on April 27, 1998. See also Release

commenters generally supported the spirit of the Commission's proposed rule with some commenters making suggestions on how they believed one or more aspects of the proposed rule could be improved. However, the majority of commenters objected to the requirement for an independent accountant's report and objected to the Year 2000 reports submitted by the transfer agents and related accountant's report being made available to the public. Based on the comments received, the Commission is adopting the proposed rule with changes discussed below.

II. Description of the Proposed Rule

The Commission proposed Rule 17Ad-18 to require non-bank transfer agents to file at least one report with the Commission regarding their Year 2000 compliance. Under the proposed rule, a non-bank transfer agent was a transfer agent whose appropriate regulatory agency ("ARA") was the Commission.⁵ Transfer agents that were also banks and whose ARA was one of the federal banking agencies would have been exempt from the proposed rule. The initial report would have been due no later than 45 days after the Commission adopted the rule. Non-bank transfer agents that did not qualify for an exemption under existing Rule 17Ad-13(d) would have been required to submit follow-up reports to the Commission on August 31, 1998, and August 31, 1999.⁶ The follow-up reports also would have included an attestation by an independent public accountant as to whether there was a reasonable basis for the non-bank transfer agent's assertions in the reports.

As noted in the proposed rule, the Commission has advised all transfer agents that if a transfer agent's computer systems have Year 2000 Problems, the transfer agent's record may be inaccurate or not current and therefore be in violation of Rules 17Ad-6 and 17Ad-7 under the Exchange Act.⁷

No. 34-39859; (April 14, 1998), 63 FR 19430 (extending the comment period from April 13, 1998, to April 27, 1998).

⁵ ARA is defined in Section 3(a)(34)(B) of the Exchange Act, 15 U.S.C. 78c(a)(34)(B). Transfer agents that are also banks have either the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, or the Federal Deposit Insurance Corporation as their ARA. Approximately 1,360 transfer agents are registered with the Commission, and the Commission is the ARA for approximately 740 of them.

⁶ 17 CFR 240.17Ad-13(d). Generally, the Rule 17Ad-13(d) exemption applies to issuer transfer agents, small transfer agents exempt under Rule 17Ad-4(b), and bank transfer agents.

⁷ 17 CFR 240.17Ad-6 and 17Ad-7.

III. Discussion of Significant Issues

A. Reporting Threshold

The Office of Thrift Supervision ("OTS") requested that the Commission extend the exemption in the proposed rule for bank transfer agents to include savings associations regulated by the OTS. The OTS stated that savings associations, unlike other non-bank transfer agents, are subject to comprehensive examinations by a Federal banking agency, using the same uniform examination standards developed under the oversight of the Federal Financial Institutions Examination Council. The OTS also noted that it is subject to similar Congressional oversight on Year 2000 issues as the Commission and the other Federal bank regulatory agencies. The OTS believes that it would be duplicative and inconsistent to require savings associations to file the reports with the Commission exempting banks from the requirement.

The Commission agrees with the OTS. Accordingly, the rule as adopted excludes from its reporting requirements transfer agents that are savings associations regulated by the OTS. Therefore the term "non-bank transfer agent" used in the rule and in the remainder of this release means a transfer agent whose: (i) Appropriate regulatory agency, as that term is defined by 15 U.S.C. 78(c)(34)(B), is the Commission; but (ii) is not a savings association, as defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813, which is regulated by the OTS. Because the Commission will continue to be the ARA for these non-bank transfer agents, the Commission will continue to consult with the OTS about the results of their examinations.

B. Attestation Requirement

The proposed rule would have required transfer agents that did not qualify for an exemption under existing Rule 17Ad-13(d) to make assertions about their efforts to address Year 2000 problems and to engage an independent public accountant to attest to their assertions.⁸ As proposed, each non-bank transfer agent would have been required to assert:

(1) Whether it has developed written plans for preparing and testing its computer systems for potential Year 2000 Problems;

(2) Whether the board of directors, or similar body, has approved these plans, and whether a member of the non-bank transfer agent's board of directors, or

similar body, is responsible for executing the plans;

(3) Whether its Year 2000 remediation plans address all domestic and international operations, including the activities of its subsidiaries, affiliates, and divisions;

(4) Whether it has assigned existing employees, hired new employees, or engaged third parties to execute its Year 2000 remediation plans; and

(5) Whether it has conducted internal and external testing of its Year 2000 solutions and whether the results of those tests indicate that the non-bank transfer agent has modified its software to correct Year 2000 problems.

The American Institute of Certified Public Accountants ("AICPA") commented that the required attestation report would be difficult for independent public accountants to provide.⁹ The AICPA explained that some of the required assertions are not appropriate for accountant attestation because the assertions are not capable of reasonably consistent measurement against established criteria. Currently, there are no established criteria related to Year 2000 remediation efforts. The lack of established criteria would likely result in significant variation in the examination procedures performed by independent public accountants and thus reduce the usefulness of the attestation reports. In addition, the AICPA expressed concern that the purpose and conclusions of the attestation report could be misunderstood. The AICPA was primarily concerned that uninformed users of the attestation reports would place undue reliance on them.

The AICPA suggested that an "agreed-upon procedures" engagement, instead of an attestation engagement, would more effectively meet the Commission's goals. Pursuant to such an engagement, non-bank transfer agents would engage independent public accountants to perform and to report on specific procedures designed to meet the Commission's objectives. This would eliminate the variability of examination procedures performed by independent public accountants and thus increase the consistency of the reports the Commission would receive. The AICPA's letter outlined elements of an agreed upon procedures report and offered to follow-up with the Commission staff regarding the development of specific procedures for a Year 2000 engagement.

⁹ Letter from Alan W. Anderson, Senior Vice-President, Technical Services and Deborah D. Lambert, Chair, Auditing Standards Board, AICPA (April 13, 1998).

⁸ The attestation report would have only been required to be filed with the follow-up reports.

The Commission is deferring consideration of whether to adopt a requirement that the second report be evaluated by an independent public accountant. The Commission, however, will consider such a requirement if the accounting industry recommends a standard which can be used by public accountants in connection with the second report.¹⁰

C. Public Availability

In the proposed rule, the Commission expressed its preliminary view that it should make publicly available non-bank transfer agent reports regarding their Year 2000 remediation efforts. Certain commenters expressed the following concerns: (i) Members of the public could place undue reliance on the reports, (ii) the technical nature of the reports may confuse investors, (iii) detailed testing reports could be misleading and unnecessarily alarming, and (iv) the reports could contain confidential proprietary information.

However, the Commission believes that the public's interest is best served by requiring full and open disclosure. Allowing the public, particularly other non-bank transfer agents and counterparties, to have access to the information reported by non-bank transfer agents will enable interested persons to assess the Year 2000 readiness of a non-bank transfer agent with which they are doing business. For example, after receiving a non-bank transfer agent's report, an issuer might request additional information or assurances if the non-bank transfer agent does not appear to be taking the steps necessary to be Year 2000 compliant. In the absence of such assurances, the issuer could determine whether it wishes to continue its dealings with that non-bank transfer agent. Accordingly, the final rule provides that these reports will be available to the public.

D. Timing

Under the proposed rule, the initial report would have evaluated the efforts of non-bank transfer agents as of December 31, 1997, and would have been required to be filed no later than 45 days after the Commission adopted the proposed rule. The follow-up reports would have evaluated non-bank

transfer agent efforts as of June 30, 1998 and June 30, 1999, and would have been due August 31, 1998, and August 31, 1999, respectively.

Some commenters expressed concerns about making reports based on old data. These commenters explained that non-bank transfer agents might not have retained the information needed to prepare the reports and would require non-bank transfer agents to provide data that was outdated and misleading.

In light of these concerns, the rule adopted today by the Commission requires non-bank transfer agents to file the initial report with the Commission by August 31, 1998. This report should reflect the status of the non-bank transfer agent's Year 2000 efforts as of July 15, 1998. The rule requires transfer agents to submit only one follow-up report, which must be filed with the Commission by April 30, 1999, and should reflect the status of the transfer agent's Year 2000 efforts as of March 15, 1999.

The rule adopted today also requires a non-bank transfer agent whose registration with the Commission becomes effective between the adoption of this rule and December 31, 1999, to file Part I of Form TA-Y2K with the Commission no later than 30 days after their registration becomes effective describing their Year 2000 compliance as of the date of their registration. New transfer agents whose registration with the Commission becomes effective between January 1, 1999, and April 30, 1999, would be required to file the second report due on April 30, 1999.

E. Reporting Requirements

As previously discussed, the proposed rule would have required certain non-bank transfer agents to discuss the steps they have taken to address Year 2000 Problems. More specifically, non-bank transfer agents would have been required to (i) indicate whether their board of directors or similar body has approved and funded written Year 2000 remediation plans that address all major computer systems; (ii) describe their Year 2000 staffing efforts and the work performed by Year 2000 dedicated staff;¹¹ (iii) discuss their progress on each stage of preparation for the Year 2000;¹² (iv)

indicate if they have written contingency plans to deal with Year 2000 problems that may occur;¹³ and (v) identify what levels of management are responsible for Year 2000 remediation efforts.

One commenter suggested certain changes to the specific reporting requirements to better clarify the information sought by the Commission. For example, the proposed rule would have required non-bank transfer agents to discuss the extent to which it has assigned existing employees, or engaged third parties in the Year 2000 effort. In addition, non-bank transfer agents would have been required to identify the levels of management involved in the Year 2000 efforts, discuss the specific responsibilities of these managers, and provide an estimate of the time they have spent on Year 2000 efforts. The commenter explained that these proposed requirements may be very burdensome, particularly for those firms that have comprehensive, complex-wide Year 2000 plans. Fixing Year 2000 problems may require the dedicated efforts of a significant number of employees and consultants. In addition, the tasks and responsibilities involved are detailed, extensive, and constantly changing.

The Commission agrees that some modification and clarification of the reporting requirements is warranted. The rule adopted today requires non-bank transfer agents to provide a summary of the efforts of individuals or groups of individuals assigned to work on the Year 2000 Problem. The non-bank transfer agent will not have to provide an estimate of the time that its management has spent on Year 2000 efforts. Finally, the non-bank transfer agent must report the number and description of material exceptions identified during the internal and external testing of its software that are unresolved as of the report date. The Commission is leaving the determination of what constitutes a

designed to avoid Year 200 Problems (including testing with other transfer agents, other financial institutions, customers, and vendors); and (vi) implementation of tested software that will avoid Year 2000 Problems.

¹³ Contingency planning should provide for adequate protections to ensure the success of critical systems if interfaces fail or unexpected problems are experienced with operating systems and infrastructure software. In addition, contingency plans should provide for the failure of external systems that interact with the transfer agents' computer systems. For example, contingency plans should anticipate the failure of a vendor that services mission critical applications and should provide for the potential that a significant customer experiences difficulty due to Year 2000 problems.

¹⁰ In light of the AICPA's comment letter and ongoing efforts, in a companion release also issued today the Commission is re-opening the comment period with respect to the proposal to have an independent public accountant review a non-bank transfer agent's second Year 2000 report. The public file (No. S7-8-98) will include both the AICPA's original comment letter and any follow-up letter submitted by the AICPA for the Commission's consideration.

¹¹ This includes whether the transfer agent has assigned existing employees, has hired new employees, or has engaged third parties to provide assistance in avoiding Year 2000 Problems.

¹² These stages are: (i) awareness of potential Year 200 Problems; (ii) assessment of what steps must be taken to avoid Year 2000 Problems; (iii) implementation of the steps needed to avoid Year 2000 Problems; (iv) internal testing of software designed to avoid Year 2000 Problems; (v) integrated or industry-wide testing of software

material exception to the non-bank transfer agent's judgment.

F. Report Format

The proposed rule would have required certain non-bank transfer agents to discuss, in narrative format, their efforts to address Year 2000 Problems. The National Association of Securities Dealers Regulation ("NASDR") commented that the Commission should prescribe an objective format, such as a check-the-box questionnaire, for non-bank transfer agents to use when reporting on their Year 2000 efforts. The NASDR explained that an open narrative format might lead to great disparity in the nature and detail of the reports the non-bank transfer agents would submit. Providing an objective reporting format would produce consistent results, improve the accuracy and comparability of reports received, and reduce the time required to summarize, track, analyze, and report the information received.

The Commission agrees that the checklist format suggested by the NASDR may be a more efficient way of collecting certain information and believes that prescribing such a format would decrease the burden the Year 2000 reporting requirements impose on non-bank transfer agents. However, the Commission is concerned that by limiting the reporting requirements to a check-the-box format, the largest, most significant non-bank transfer agents would not provide the Commission with sufficient information to effectively assess Year 2000 problems. Therefore, the rule as adopted requires all non-bank transfer agents to file with the Commission Part I of Form TA-Y2K, a check-the-box style report.¹⁴ Part I of Form TA-Y2K requires non-bank transfer agents to provide generally the same information as the proposed rule would have required to be submitted in narrative form. However, non-bank transfer agents that do not qualify for an exemption under Rule 17Ad-13(d) will be required to supplement Part I by completing Part II of Form TA-Y2K, which requires a narrative discussion of their efforts to address Year 2000 Problems. Because Rule 17Ad-13(d) generally exempts small transfer agents or issuer transfer agents that typically handle few issues, the potential that these transfer agents could disrupt the clearance and settlement process is not as likely as larger transfer agents that process more issues for more issuers.

Copies of Form TA-Y2K are available in the Commission Public Reference Room located at 450 Fifth Street, NW,

Washington DC 20549 or copies can be obtained from the Commission's internet web site at the following address: www.sec.gov.

IV. Costs and Benefits of the Rules and Their Effects on Competition, Efficiency, and Capital Formation

Section 23(a) of the Exchange Act¹⁵ requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules and to not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Furthermore, Section 3(f) of the Exchange Act¹⁶ provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

The Commission has considered the amendments to Rule 17Ad-18 in light of the standards cited in Sections 3 and 23 (a)(2) of the Exchange Act. In the proposed rule, the Commission requested that commenters provide analysis and data supporting the costs and benefits of the proposed rule. In addition, the Commission sought comments on the proposed rule's effect on competition, efficiency, and capital formation.

Several commenters indicated that the Commission's cost estimates were too low. However, no commenters provided detailed information or data as to the costs of the proposed rule. One commenter questioned whether the additional regulations and their expense will generate greater preparedness and compliance or whether they would be a greater distraction and misdirect the focus from Year 2000 preparations. Another commenter noted that the Division of Market Regulation has already requested information from each transfer agent regarding its Year 2000 preparations. Therefore, the commenter believed that the proposed rule was duplicative. Another commenter suggested that instead of the proposed rule the Commission should issue an interpretive release under Rule 17Ad-13 that provided standards for transfer agent Year 2000 programs.

Two commenters believed that preparation of the reports required by the proposed rule was not costly or difficult. One of these commenters

suggested that all transfer agents, regardless of size or being regulated by other authorities, should provide the reports required by the proposed rule. Three commenters suggested that the Commission also should require transfer agents to obtain certifications from their vendors. No commenter addressed the issue of whether the proposed rule would affect competition or regarding the proposed rule's affect on efficiency and capital formation.

A. Cost Benefit Analysis

Based on comments received, the Commission has revised the proposed rule to lower the aggregate cost of compliance with the rule. As discussed above, the Commission is adopting new Form TA-Y2K, eliminating one of the reporting dates, and expanding the reporting requirement for certain non-bank transfer agents. Under the final rule, all non-bank transfer agents are required to file Part I of Form TA-Y2K, a less burdensome check-the-box report, twice. The proposed rule required an initial report from all non-bank transfer agents and two follow-up reports from those non-bank transfer agents that did not qualify for an exemption under Rule 17Ad-13(d). Under the final rule, each non-bank transfer agent that does not qualify for an exemption under Rule 17Ad-13(d) is also required to complete Part II of Form TA-Y2K.

The Commission is also deferring consideration of whether to require non-bank transfer agents to engage accountants to examine their efforts to address Year 2000 Problems. The Commission is allowing non-bank transfer agents to summarize by group the efforts of Year 2000 dedicated individuals as opposed to requiring individual descriptions of their efforts. Non-bank transfer agents will not have to provide an estimate of the time management has spent on Year 2000 efforts. Finally, non-bank transfer agents are only required to report the number and description of unresolved material exceptions identified during the internal and external testing of their software.

Based on field testing of a virtually identical form, Form BD-Y2K, conducted by the Office of Compliance Inspections and Examinations, the Commission estimates that on average a non-bank transfer agent will spend approximately two hours completing Part I of Form TA-Y2K resulting in a total cost to the industry of \$296,000.¹⁷ This is based on 740 respondents

¹⁷ Field tests of Part I of Form BD-Y2K indicated that it could be completed in as little as 30 minutes. However, the Commission believes that it may take longer for some broker-dealers to complete Part I of Form BD-Y2K.

¹⁴ For a copy of Form TA-Y2K see Appendix A.

¹⁵ 15 U.S.C. 78W (A)(2).

¹⁶ U.S.C. 78c.

spending four hours at \$100 per hour preparing two Part Is of Form TA-Y2K. The Commission estimates that on average a non-bank transfer agent will spend 35 hours completing Part II of Form TA-Y2K resulting in a total cost to the industry of \$1,400,000. This is based upon 200 non-bank transfer agents spending 70 hours at \$100 per hour preparing two Part IIs of Form TA-Y2K. Therefore, based upon the adjustments to the proposed rule, the Commission has revised its cost to the industry to a total of \$1,696,000 (\$296,000 + \$1,400,000). It is important to note that the total cost estimate is not an annual cost. Non-bank transfer agents will only be required to prepare and file two Form TA-Y2Ks.

No commenters addressed the potential benefits of the rule and the Commission has not been able to quantify those benefits. However, the Commission believes that the benefits will outweigh the costs. The Commission is aware of the significant effort the securities industry has put forth and the progress it has made, but believes that significant progress still needs to be made by the securities industry to be ready for the Year 2000. As noted above, because transfer agents do not have an SRO, the only available information is from the transfer agents themselves.

The Commission does not yet have comprehensive information regarding the readiness of the transfer agent industry for the Year 2000. While the federal banking agencies are examining bank transfer agents, it is important for the Commission to obtain complete information from non-bank transfer agents to permit the Commission to assess the risks associated with non-bank transfer agents that fail to show adequate Year 2000 progress. Moreover, the Commission believes that a requirement to file Year 2000 reports should encourage non-bank transfer agents to proceed expeditiously with their efforts to prepare for the Year 2000. The Commission will use the reported information to obtain a more complete picture of the industry's overall Year 2000 preparations and to identify transfer agent-specific and industry-wide problems. Information in the reports will help the Commission focus its Year 2000-related efforts for the rest of 1998 and 1999 on particular industry segments or non-bank transfer agents that appear to pose the greatest risk of non-compliance.

In sum, the rule will enable the Commission to take a more active role in assessing the Year 2000 risk to the securities industry. The reports non-bank transfer agents will be required to

file will increase transfer agent awareness that they should be taking specific steps now to prepare for the Year 2000; help coordinate industry testing and contingency planning; supplement the Commission's examination module for Year 2000 issues; provide information regarding the securities industry's preparedness for the Year 2000; and (iv) enable the Commission to identify particular compliance problems.

B. Efficiency, Competition, and Capital Formation

In the proposing release, the Commission stated that the proposed rule should not unduly burden competition. No commenter addressed the proposed rule's effect on competition.

The Commission believes that it has drafted Rule 17Ad-18 so as to minimize their impact on competition. As discussed above, the Commission has structured the form of the report to differentiate between non-bank transfer agents based upon the threat they would pose to customers and the market if they are not Year 2000 compliant. As discussed above, non-bank transfer agents that qualify for an exemption under Rule 17Ad-13(d) (i.e., small transfer agents and issuer transfer agents) are only required to file the less burdensome Year 2000 report. Larger non-bank transfer agents that provide services for multiple issuers do not qualify for an exemption and are required to provide additional information. The Commission believes that Rule 17Ad-18 does not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

The Commission believes that the rule should increase the efficiency and effectiveness of the industry's efforts to prepare for the Year 2000 by increasing awareness, focusing industry efforts, and providing critical information for identifying and remedying problems. In addition, the Commission believes that the rule does not adversely affect capital formation. However, failure on the part of the securities industry to adequately prepare for the Year 2000 could adversely affect capital formation at the beginning of the next millennium.

V. Final Regulatory Flexibility Analysis

A final Regulatory Flexibility Analysis ("FRFA") concerning Rule 17Ad-18 has been prepared in accordance with the provisions of the Regulatory Flexibility Act ("RFA"), as amended by Pub. L. 104-121, 110 Stat. 847, 864 (1996), 5 U.S.C. 604. The FRFA notes that Rule 17Ad-18 will increase

transfer agent awareness of the specific steps they should be taking to prepare for the Year 2000; help coordinate industry testing and contingency planning; supplement the Commission's examination module for Year 2000 issues and identify potential Year 2000 compliance problems; and provide information regarding the securities industry's preparedness for the Year 2000.

The Commission received no comments on the Initial Regulatory Flexibility Analysis ("IRFA") prepared in connection with the proposed rule, and no comment letters specifically addressed the IRFA. However, as discussed in paragraph III.A above, certain commenters expressed concern about the threshold for determining which non-bank transfer agents are required to report on their efforts to prepare for the Year 2000, and estimated costs associated with obtaining the independent public accountant's attestation.

As discussed more fully in the FRFA, the rule will affect transfer agents that are small entities pursuant to Rule 0-10 under the Exchange Act.¹⁸ When used with reference to a transfer agent, the Commission has defined the term "small entity" to mean a transfer agent that: (1) received less than 500 items for transfer and less than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter); (2) maintained master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and (3) is not affiliated with any person (other than a natural person) that is not a small business or small organization under Rule 0-10. Approximately 413 registered transfer agents qualify as "small entities" for purposes of the RFA.

The Commission has drafted Rule 17Ad-18 to minimize its impact on small transfer agents while enhancing investor protection and minimizing any impact on competition, in part, by adopting different reporting requirements to take into account the resources available to small non-bank transfer agents. First, small bank transfer agents are not required to submit any reports. Second, while the rule requires all non-bank transfer agents to report on their efforts to address Year 2000 problems, the Commission has adopted two reporting formats. Small non-bank

¹⁸ 17 CFR 240.0-10.

transfer agents are only required to file a less burdensome check-the-box style Year 2000 report. As noted in section IV.A above, the Commission estimates that it would take each non-bank transfer agent approximately four hours to complete Part I of Form TA-Y2K. The remaining non-bank transfer agents are required to provide, in addition to the check-the-box style report, a more extensive narrative discussion of their Year 2000 efforts. These non-bank transfer agents are typically larger transfer agents that process multiple issues and could potentially have a greater impact on the clearance and settlement system. Thus, by adopting different reporting requirements and by exempting small bank transfer agents, the Commission has imposed no burden, or only a very limited burden, on small transfer agents.

The FRFA notes that it would be difficult to further simplify, consolidate, or adjust compliance standards for small non-bank transfer agents and be able to effectively monitor the securities industry's efforts to prepare for the Year 2000. The Commission believes that the alternate reporting requirement adopted today for small non-bank transfer agents strikes the appropriate balance between the need to protect investors and to minimize any impact on small non-bank transfer agents. The Commission also considered the use of performance rather than design standards. However, the Commission concluded that it would be inconsistent with the purpose of the rule to use performance standards to specify different requirements for small entities.

A copy of the FRFA may be obtained by contacting Jeffrey Mooney, Special Counsel, U.S. Securities and Exchange Commission, Mail stop 10-1, 450 Fifth Street, NW., Washington, DC 20549.

VI. Paperwork Reduction Act

As set forth in the proposed rule, Rule 17Ad-18 contains collections of information within the meaning of the Paperwork Reduction Act of 1995 ("PRA").¹⁹ Accordingly, the collection of information requirements were submitted to the Office of Management and Budget ("OMB") for review and were approved by OMB which assigned the following control number 3235-0512.

The proposed rule solicited comments on the proposed collections of information. No comments were received that specifically addressed the PRA submission. However, as discussed above, the Commission received suggestions that would improve the

collections of information. Based upon these suggestions, the collections of information have been adjusted as described in section III. above. For example, the rule adopted today requires non-bank transfer agents to provide a summary of the efforts of individuals or groups of individuals assigned to work on the Year 2000 Problem, and the reports will not have to provide an estimate of the time management has spent on Year 2000 efforts, nor the number and nature of material exceptions identified during the internal and external testing of its software.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a valid OMB control number. The collection of information under Rule 17Ad-18 is necessary for non-bank transfer agents to comply with certain requirements and is necessary to provide the Commission with information on the security industry's readiness for the Year 2000. The information collected pursuant to Rule 17Ad-18 will be made public.

Based upon the adjustments to the amendments, the Commission is adjusting its burden estimate. The Commission estimated in the proposed rule that, on average, a non-bank transfer agent would spend 50 hours preparing each of the three Year 2000 reports and obtaining the two independent public accountant's Attestations. The Commission estimates that under the final amendments, a non-bank transfer agent will, on average, spend two hours preparing Part I of Form TA-Y2K and 35 hours preparing Part II of Form TA-Y2K. The total annualized burden to the securities industry is estimated at 8,480 hours. This is based on 740 respondents spending two hours preparing Part I and 200 respondents preparing Part II of Form TA-Y2K.

VII. Statutory Analysis

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 17(a) and 23(a) thereof, 15 U.S.C. 78o(c)(3) and 78w, the Commission is adopting amendments to § 240.17Ad-18 of Title 17 of the Code of Federal Regulations in the manner set forth below.

List of Subjects in 17 CFR Parts 240 and 249

Broker-dealers, Reporting and recordkeeping requirements, Securities.

Text of Final Rule

In accordance with the foregoing, Title 17, chapter II, part 240 of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll(d), 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *

2. By adding § 240.17Ad-18 to read as follows:

§ 240.17Ad-18 Year 2000 Reports to be made by certain transfer agents.

(a) Each registered non-bank transfer agent must file Part I of Form TA-Y2K (§ 249.619 of this chapter) with the Commission describing the transfer agent's preparation for Year 2000 Problems. Part I of Form TA-Y2K shall be filed no later than August 31, 1998, and April 30, 1999. Part I of Form TA-Y2K shall reflect the transfer agent's preparation for the Year 2000 as of July 15, 1998, and March 15, 1999, respectively.

(b) Each registered non-bank transfer agent, except for those transfer agents that qualify for the exemption in paragraph (d) of § 240.17Ad-13, must file with the Commission Part II of Form TA-Y2K (§ 249.619 of this chapter) in addition to Part I of Form TA-Y2K. Part II of Form TA-Y2K report shall address the following topics:

(1) Whether the board of directors (or similar body) of the transfer agent has approved and funded plans for preparing and testing its computer systems for Year 2000 Problems;

(2) Whether the plans of the transfer agent exist in writing and address all mission critical computer systems of the transfer agent wherever located throughout the world;

(3) Whether the transfer agent has assigned existing employees, has hired new employees, or has engaged third parties to provide assistance in addressing Year 2000 Problems; and if so, a description of the work that these groups of individuals have performed as of the date of each report;

(4) The current progress on each stage of preparation for potential problems caused by Year 2000 Problems. These stages are:

(i) Awareness of potential Year 2000 Problems;

¹⁹ 44 U.S.C. 3501 *et seq.*

(ii) Assessment of what steps the transfer agent must take to address Year 2000 Problems;

(iii) Implementation of the steps needed to address Year 2000 Problems;

(iv) Internal testing of software designed to address Year 2000 Problems, including the number and description of the material exceptions resulting from such testing that are unresolved as of the reporting date;

(v) Point-to point or industry-wide testing of software designed to address Year 2000 Problems (including testing with other transfer agents, other financial institutions, and customers), including the number and description of the material exceptions resulting from such testing that are unresolved as of the reporting date; and

(vi) Implementation of tested software that will address Year 2000 Problems;

(5) Whether the transfer agent has written contingency plans in the event that, after December 31, 1999, it has computer problems caused by Year 2000 Problems; and

(6) What levels of the transfer agent's management are responsible for addressing potential problems caused by Year 2000 Problems, including a description of the responsibilities for each level of management regarding the Year 2000 Problems;

(7) Any additional material information in both reports concerning its management of Year 2000 Problems that could help the Commission assess

the transfer agent's readiness for the Year 2000.

(8) Part II of Form TA-Y2K (§ 249.619 of this chapter) shall be filed no later than August 31, 1998, and April 30, 1999. Part II of Form TA-Y2K shall reflect the transfer agent's preparation for the Year 2000 as of July 15, 1998, and March 15, 1999, respectively.

(c) Any non-bank transfer agent that registers between the adoption of the final rule and December 31, 1999, must file with the Commission Part I of Form TA-Y2K (§ 249.619 of this chapter) no later than 30 days after their registration becomes effective. New transfer agents whose registration with the Commission becomes effective between January 1, 1999, and April 30, 1999, would be required to file the second report due on April 30, 1999.

(d) For purposes of this section, the term Year 2000 Problem shall include problems arising from:

(1) Computer software incorrectly reading the date "01/01/00" as being the year 1900 or another incorrect year;

(2) Computer software incorrectly identifying a date in the Year 1999 or any year thereafter;

(3) Computer software failing to detect that the Year 2000 is a leap year; or

(4) Any other computer software error that is directly or indirectly caused by paragraph (d)(1), (2), or (3) of this section.

(e) For purposes of this section, the term non-bank transfer agent means a transfer agent whose:

(1) Appropriate regulatory agency, as that term is defined by 15 U.S.C. 78(c)(34)(B), is the Securities and Exchange Commission; and

(2) Is not a savings association, as defined by Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813, which is regulated by the Office of Thrift Supervision.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

4. By adding § 249.619 and Form TA-Y2K to read as follows.

§ 249.619 Form TA-Y2K, information required of transfer agents pursuant to section 17 of the Securities Exchange Act of 1934 and § 240.17Ad-18 of this chapter.

This form shall be used by every registered transfer agent required to file reports under § 240.17Ad-18 of this chapter.

Note: Form TA-Y2K does not appear in the *Code of Federal Regulations*. Form TA-Y2K is attached as Appendix A to this document.

By the Commission.

Dated: July 2, 1998.

Margaret H. McFarland,
Deputy Secretary.

BILLING CODE 8010-01-P

OMB Number:	3235-0512
Expires	12/31/1999
Estimated Average Burden Hours per response	2

APPENDIX A

FORM TA-Y2K
Cover Page
United States
Securities Exchange Commission
Mail Stop A-2
450 5th Street, N.W.
Washington, D.C. 20549

Name of Transfer agent: _____

File No.: _____

Address of Principal Place of Business (Do Not Use P.O. Box No.):

**Contact Person Responsible for Filling Out This Form (Please provide your
business address and phone number):**

Name: _____

Title: _____

Phone: _____

Address: _____

Signature

Title

Attention: Intentional misstatements or omissions of fact constitutes Federal Criminal
Violations (See 18 U.S.C. 1001 and 15 U.S.C. 78:ff(a))
SEC 2437 (6/98)

GENERAL INSTRUCTIONS

These instructions are considered an integral part of Form TA-Y2K.

TYPE all responses to this Form. Once submitted, Form TA-Y2K may not be amended.

Form TA-Y2K is divided into two parts. As discussed below, each non bank transfer agent must complete Part I. A Non-bank transfer agent must complete Part II if it does not qualify for one of the exemptions contained in Rule 17Ad-13(d) (17 CFR 240.17Ad-13(d)).

An original and two copies of each Form TA-Y2K must be filed with the Commission's principal office at mail stop A-2, 450 5th Street, N.W., Washington, D.C. 20549. The original Form TA-Y2K that is required to be filed with the Securities and Exchange Commission must be manually signed.

For purposes of this form, a transfer agent is a non-bank transfer agent if: (i) its appropriate regulatory agency, as that term is defined by 15 U.S.C. 78(c)(34)(B), is the Securities and Exchange Commission ("Commission"); and (ii) it is not a savings association, as defined by 12 U.S.C. 1813, regulated by the Office of Thrift Supervision.

For the purposes of this Form TA-Y2K, the term "Year 2000 Problem" includes any erroneous result caused by computer software (i) incorrectly reading the date "01/01/00" or any year thereafter; (ii) incorrectly identifying a date in the year 1999 or any year thereafter; and (iii) failing to detect that the Year 2000 is a leap year; and (iv) any other computer error that is directly or indirectly related to the problems set forth in (i), (ii), or (iii) above.

PART I

Pursuant to section 240.17Ad-18(a) each non-bank transfer agent must file Part I of Form TA-Y2K with the Commission no later than August 31, 1998, and no later than April 30, 1999. Part I of Form TA-Y2K shall reflect the non-bank transfer agent's preparation for the Year 2000 as of July 15, 1998, and March 15, 1999, respectively.

Any non-bank transfer agent whose registration becomes effective between the adoption of the final rule and December 31, 1999, must file with the Commission Part I of Form TA-Y2K no later than 30 days after their registration becomes effective. New transfer agents whose registration with the Commission becomes effective between January 1, 1999, and April 30, 1999, would be required to file the second report due on April 30, 1999.

Please do not write explanatory notes next to the questions on the form.

PART II

Pursuant to section 240.17Ad-18(b), all non-bank transfer agents that are eligible for an exemption under section 240.17Ad-13(d) must file Part II of Form TA-Y2K with the Commission no later than August 31, 1998, and April 30, 1999. Part II of Form TA-Y2K shall reflect the non-bank transfer agent's preparation for the Year 2000 as of July 15, 1998, and March 15, 1999, respectively.

A non-bank transfer agent required to complete Part II of the form must also complete Part I. Each question should be answered in narrative form, even if your answer covers the same topics included in Part I of this Form.

PAPERWORK REDUCTION ACT DISCLOSURE

Form TA-Y2K requires a non-bank transfer agent to provide to the Commission information concerning its efforts to address Year 2000 Problems. The form is designed to enable the Commission to increase transfer agent awareness that they should be taking specific steps now to prepare for the Year 2000, help coordinate industry testing, and help identify potential compliance problems.

It is estimated that a transfer agent will spend approximately 2 hours completing Part I of each Form TA-Y2K and 35 hours completing Part II of Form TA-Y2K. Any member of the public may direct to the Commission any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden. This filing will be available to the public.

No assurance of confidentiality is given by the Commission with respect to the responses made in the Form TA-Y2K. The public has access to the information contained in the form.

This collection of information has been reviewed by the Office of Management and Budget (OMB) in accordance with the clearance requirements of 44 U.S.C. §3507. This collection of information has been assigned Control Number 3235-XXXX by OMB.

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 number. Section 17(a) of the Securities Exchange Act of 1934 authorizes the Commission to collect the information on this Form from transfer agents. See 15 U.S.C. §78q.

PART I**Transfer Agent Name** _____**Address** _____**File No.** _____☐ **Check box if you are also completing Part II of Form TA-Y2K****1. Year 2000 compliance plan**

(a) Do you have a plan for Year 2000 compliance to address whether your computer systems will operate correctly after December 31, 1999?

☐ Yes ☐ No

(b) If not, are you?

☐ Developing a written plan. It is expected to be completed by:

MM/DD/YYYY

☐ Not developing a written plan because you do not plan to be conducting business after January 1, 2000. Plan to be out of business by: MM/DD/YYYY

☐ Other (Please specify) _____

If you do not have a plan, go to question 2.

(c) Does the plan address external interfaces with third party computer systems that communicate with your systems?

☐ Yes ☐ No

(d) Is your Year 2000 compliance plan in writing?

☐ Yes ☐ No

(e) Who has approved the plan? (Check all that apply)

☐ No approval ☐ Board of Directors ☐ Corporate officers ☐ Executive management ☐ Head of Information Technology ☐ Employees

(f) Has the plan been discussed with your outside auditors?

☐ Yes ☐ No

(g) What is the scope of coverage of the plan? (Check all that apply)

☐ All systems ☐ Mission critical systems ☐ Physical facilities ☐
Communications systems

(h) Which of your facilities does the plan cover? (Check all that apply)

☐ Our primary facility ☐ Certain U.S. facilities ☐ All U.S. facilities
☐ Certain facilities worldwide ☐ All facilities worldwide
☐ We have no international facilities

(i) Are your activities for non-US clients covered by the plan?

☐ Yes ☐ No ☐ Not Applicable

2. Funding for Year 2000 compliance

(a) Please indicate the month your fiscal year begins. _____

(b) Has specific funding been allocated for fiscal year 1998, fiscal year 1999, or fiscal year 2000 for your Year 2000 compliance plan?

(i) 1998 ☐ Yes ☐ No

(ii) 1999 ☐ Yes ☐ No

(ii) 2000 ☐ Yes ☐ No

If funding has not been allocated for fiscal year 1999, mark "no."

If you marked "no" for 1998 and 1999, go to question 3.

(c) What is your specific 1998 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?

☐ Less than \$1,000 ☐ \$1,001 - \$10,000 ☐ \$10,001 - \$50,000

☐ \$50,001 - \$100,000 ☐ \$100,001 - \$500,000

☐ \$500,001 - \$1 million ☐ \$1-2 million ☐ \$2-5 million ☐ \$5-10 million

☐ \$10-20 million ☐ \$20-50 million ☐ \$50-100 million ☐ over \$100 million

(d) What items are contained in your 1998 budget for Year 2000 compliance? (Check all that apply)

- ☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems ☐ Internal testing ☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents, clearing agencies, other service providers, and etc.) ☐ Training ☐ SIA industry wide testing ☐ Implementation of contingency plans

If you marked "no" for fiscal year 1999 in question 2(b), go to question 3.

(e) What is your specific 1999 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?

- ☐ Less than \$1,000 ☐ \$1,001 - \$10,000 ☐ \$10,001 - \$50,000
☐ \$50,001 - \$100,000 ☐ \$100,001 - \$500,000
☐ \$500,001 - \$1 million ☐ \$1-2 million ☐ \$2-5 million ☐ \$5-10 million
☐ \$10-20 million ☐ \$20-50 million ☐ \$50-100 million ☐ over \$100 million

(f) What items are contained in your 1999 budget for Year 2000 compliance? (Check all that apply)

- ☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems ☐ Internal testing ☐ Point-to-point testing (including testing with issuers, broker-dealers, custodians, clearing agencies, other service providers, and etc.) ☐ Training ☐ SIA industry wide testing ☐ Implementation of contingency plans.

If you marked "no" for fiscal year 2000 in question 2(b), go to question 3.

(g) What is your specific 2000 fiscal year budget allocation for Year 2000 compliance (including operating and capital expenditures)?

- ☐ Less than \$1,000 ☐ \$1,001 - \$10,000 ☐ \$10,001 - \$50,000
☐ \$50,001 - \$100,000 ☐ \$100,001 - \$500,000
☐ \$500,001 - \$1 million ☐ \$1-2 million ☐ \$2-5 million ☐ \$5-10 million
☐ \$10-20 million ☐ \$20-50 million ☐ \$50-100 million ☐ over \$100 million

(h) What items are contained in your 2000 budget for Year 2000 compliance? (Check all that apply)

- ☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems
☐ Internal testing ☐ Point-to-point testing (including testing with broker-dealers, custodians, transfer agents, clearing agencies, other service providers, etc.)
☐ Training ☐ SIA industry wide testing ☐ Implementation of contingency plans

3. Persons responsible for Year 2000

(a) Has one or more individuals been designated as responsible for your Year 2000 compliance?

☐ Yes ☐ No

(b) If yes, please provide the following information on the person primarily responsible:

Name: _____

Title: _____

Business address: _____

4. Staffing for Year 2000

(a) Is this a full-time project for at least one individual (including both employees and consultants)?

☐ Yes ☐ No

(b) If yes, how many individuals are working full time on Year 2000 compliance?

☐ 1 ☐ 2-5 ☐ 6-10 ☐ 11-20 ☐ 21-50 ☐ 51-100 ☐ 101-200 ☐ over 200

(c) Have you hired third parties to assist you on Year 2000 issues?

☐ Yes ☐ No

(d) If yes, what function(s) are the third parties performing? (Check all that apply)

☐ Assessment of the problem ☐ Correction of systems ☐ Replacement of systems

☐ Internal testing ☐ Training ☐ Vendor assessment

☐ Point-to-point testing (including testing with issuers, broker-dealers, custodians, clearing agencies, other service providers, and etc.)

☐ SIA industry wide testing

☐ Other (Please specify): _____

- (e) If you have not completed staffing your Year 2000 project, are you?
- ☐ Defining resources. This will be completed by: MM/DD/YYYY
 - ☐ Unable to find sufficient staffing resources.
 - ☐ Handling the staffing as part of your ongoing business operations.

5. Inventory of systems

(a) Have you inventoried all systems?

- ☐ Yes ☐ No

(b) What is the nature of the computer systems you utilize? (Check all that apply)

- ☐ Off the shelf ☐ Vendor provided
☐ In house developed (custom made)
☐ Other (Please specify): _____

(c) Have you identified your mission critical systems?

- ☐ Yes ☐ No

(d) If no, this will be completed by: MM/DD/YYYY

(e) Have you determined which of your critical systems are not currently Year 2000 compliant?

- ☐ Yes ☐ No

6. Awareness of the problem

What steps have you taken to enhance awareness of potential Year 2000 Problems?

(Check all that apply)

- ☐ None to date ☐ Designated individuals for Year 2000 compliance
☐ Presentations to the Board ☐ Presentations to management
☐ Presentations to employees ☐ Contacted third parties
☐ Other (Please specify) _____

7. Progress on preparing critical systems for the Year 2000

What is your progress on the following stages of preparation for the Year 2000?

(a) **Assessment** of steps you will take to address Year 2000 Problems with your mission critical systems (including preparing an inventory of computer systems affected by the Year 2000):

☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, assessment expected to be completed by: (MM/DD/YYYY)

(b) **Implementation** of steps you will take to address Year 2000 Problems with your mission critical systems:

☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation expected to be completed by:

(MM/DD/YYYY)

(c) **Testing of your mission critical internal systems:**

☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, testing expected to be completed by: (MM/DD/YYYY)

(d) Did your testing of internal systems result in material exceptions that remain unresolved as of this filing?

☐ Yes ☐ No

(e) **Point-to-point testing of your critical systems (including testing with issuers, broker-dealers, other financial institutions, customers, and vendors):**

☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, testing expected to be completed by: (MM/DD/YYYY)

(f) Did your point-to-point testing result in material exceptions that remain unresolved as of this filing?

☐ Yes ☐ No

(g) **Implementation** of tested software that addresses Year 2000 Problems with your mission critical systems:

☐ 0% ☐ 1-25% complete ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation expected to be completed by:

(MM/DD/YYYY)

8. Progress on preparing all other systems for the Year 2000.

What is your progress on the following stages of preparation for the Year 2000?

(a) **Assessment** of steps you will take to address Year 2000 Problems with your non-critical systems (including preparing an inventory of computer systems affected by the Year 2000):

☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, assessment expected to be completed by: (MM/DD/YYYY)

(b) **Implementation** of steps you will take to address Year 2000 Problems with you non-critical systems:

☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation expected to be completed by:

(MM/DD/YYYY)

(c) **Testing of your non-critical internal systems:**

☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, testing expected to be completed by: (MM/DD/YYYY)

(d) **Did your testing of internal systems result in material exceptions that remain unresolved as of this filing?**

☐ Yes ☐ No

(e) **Point-to-point testing of your non-critical systems (including testing with other broker-dealers, other financial institutions, customers, and vendors):**

☐ 0% complete ☐ 1%-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, testing expected to be completed by: (MM/DD/YYYY)

(f) **Did your point-to-point testing result in material exceptions that remain unresolved as of this filing?**

☐ Yes ☐ No

(g) **Implementation** of tested software that addresses Year 2000 Problems with your non-critical systems:

☐ 0% ☐ 1-25% complete ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ complete

If not completed, implementation expected to be completed by:

(MM/DD/YYYY)

9. Contingency plans

(a) Do you have a contingency plan for your systems if, after December 31, 1999, you have problems caused by Year 2000 Problems?

☐ Yes ☐ No

(b) If yes, is the contingency plan in writing?

☐ Yes ☐ No ☐ Not Applicable

(c) If not, what is your progress in preparing a contingency plan?

☐ 0% complete ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-100%

(d) What is the scope of the contingency plan? (Check all that apply)

☐ No systems ☐ Critical systems ☐ Physical facilities

☐ Communications systems ☐ All systems

(e) Who has approved the contingency plan?

(Check all that apply)

☐ No approval ☐ Board of Directors ☐ Corporate officers ☐ Executive management ☐ Head of Information Technology ☐ Employees

10. Third parties who provide mission critical systems

(a) Have you identified all third parties upon whom you rely for your critical systems?

☐ Yes ☐ No

(b) If yes, how many third parties do you rely upon for your mission critical systems?

☐ _____

(c) What percentage of third parties upon whom you rely for mission critical systems have you contacted regarding their readiness for the Year 2000?

☐ 0% ☐ 1-25% ☐ 26-50% ☐ 51-75% ☐ 76-99% ☐ all

If not all, contact expected to be completed by: (MM/DD/YYYY)

(d) Has any third party upon whom you rely for mission critical systems declined or failed to provide you with assurances that it is taking the necessary steps to prepare for the Year 2000?

☐ **Yes** ☐ **No** ☐ **Not Applicable**

(e) If yes, how many third parties providing critical systems have not provided such assurances?

☐ _____

(f) Does your contingency plan account for third parties whose systems may fail after December 31, 1999?

☐ **Yes** ☐ **No** ☐ **We have no contingency plan**

PART II**Transfer Agent Name****Address****File No.**

Pursuant to section 240.17Ad-17(b), identify a specific person or persons that are available to discuss the contents of this report and please respond to each of the following questions in narrative form. Each question must be answered, even if your answer covers the same topics included in Part I of this Form

(A) Has the transfer agent's board of directors (or similar body) approved and funded plans for preparing and testing its computer systems for Year 2000 Problems?

(B) Do the transfer agent's plans for preparing and testing its computer systems for Year 2000 Problems exist in writing and do the plans address all mission critical computer systems of the transfer agent wherever located throughout the world?

(C) Has the transfer agent assigned existing employees, hired new employees, or engaged third parties to provide assistance in addressing Year 2000 Problems? If so, provide a description of the work that these groups of individuals have performed as of the date of each report.

(D) What is the transfer agent's current progress on each stage of preparation for potential problems caused by Year 2000 Problems? These stages are:

- (1) Awareness of potential Year 2000 Problems;
- (2) Assessment of what steps the transfer agent must take to address Year 2000 Problems;
- (3) Implementation of the steps needed to address Year 2000 Problems;
- (4) Internal testing of software designed to address Year 2000 Problems, including the number and a description of the material exceptions resulting from such testing that are unresolved as of the reporting date;
- (5) Point-to-point or industry-wide testing of software designed to address Year 2000 Problems (including testing with issuers, brokers, The Depository Trust Company, other financial institutions, and customers), including the number and

a description of the material exceptions resulting from such testing that are unresolved as of the reporting date; and

(6) Implementation of tested software that will address Year 2000 Problems.

(E) Does the transfer agent have written contingency plans in the event, that after December 31, 1999, it has problems caused by Year 2000 Problems?

(F) What levels of management of the transfer agent are responsible for addressing potential problems caused by Year 2000 Problems? Provide a description of the responsibilities for each level of management regarding the Year 2000 Problems.

(G) Provide any additional material information concerning the transfer agent's management of Year 2000 Problems that will help the Commission assess the transfer agent's readiness for the Year 2000.