

Service to collect a non-machinable surcharge on all letter-shaped DVD mail. The Letter Round-Trip Mailer and Flat Round-Trip Mailer categories established in Order No. 718 would be eliminated and the Postal Service would impose the full charge for the second ounce of First-Class DVD flats mail.

c. An operational remedy that would require manual handling of all letter-shaped DVDs subject to certain standards.

The remedy would require the Postal Service to provide uniform manual processing to all letter-shaped DVD mail, *e.g.*, the type afforded Netflix's mail. The non-machinable surcharge would not be imposed. However, the Letter Round-Trip Mailer and Flat Round-Trip Mailer categories would not be retained. While manual processing of DVD letter mail would be made available to all mailers on a non-discriminatory basis, it nevertheless would recognize that operational factors can affect the feasibility of providing manual processing at any point in time and that individual mailers cannot be guaranteed the exact same level of manual processing. This recognition that manual processing levels may fluctuate and vary from mailer to mailer distinguishes this operational remedy from the GameFly operational remedy that would require that each mailer receive the same level of manual processing. Enforcement of the requirement that such manual processing be provided on a non-discriminatory basis could be facilitated by requiring the Postal Service to monitor and report manual processing levels, *e.g.*, based on IMb scans.

## Appendix—Summary Descriptions of Potential Remedies

### I. GameFly Proposed Remedies

#### a. Equal Rate Treatment

Rates for letter- and flat-shaped DVD mail at the First-Class Mail letter rate would be equalized either at the current first ounce letter rates or at rates higher than the First-Class Mail letter rate.

#### b. An Equal Contribution Remedy

An equal contribution remedy would reduce rates for flat-shaped DVD mail to a level that would produce an equal contribution for letter- and flat-shaped DVD mail. The Commission rejected GameFly's proposed equal contribution remedy, in part, on the limitations of the then-current record.<sup>9</sup> This option may require the parties to develop supplemental or revised cost data to address the deficiencies of the then-record data.

### II. Postal Service Proposed Remedy

A remedy that would require an explanation of why any residual discrimination is due or reasonable, such as the Commission's original remedy. This would preserve the remedy adopted in Order

No. 718, permitting DVD mailers either to send one-ounce letter-shaped mail without paying a non-machinable surcharge or to send flat-shaped mail of up to two-ounces at the applicable one-ounce single-piece First-Class flat rates. Order No. 718 at 1–2. This remedy could require the Commission to provide a more extensive and persuasive explanation of the rationale for any remaining discrimination in order to withstand further appellate review.

### III. Remedies Identified by the Commission

a. Retain the Letter Round-Trip DVD Mailer and Flat Round-Trip DVD Mailer categories, impose a requirement that the Postal Service manually process all letter-shaped DVD mail, and establish an enforcement mechanism to ensure manual processing is occurring at a certain level.

This remedy would retain the Letter Round-Trip Mailer and Flat Round-Trip Mailer categories and rates as established in Order No. 718. It would require the Postal Service to provide manual processing for all letter-shaped DVD mail and it would establish an enforcement mechanism to ensure that a certain level of manual processing was in fact provided. Mailers who are satisfied with the prescribed level of manual processing could send their DVDs as letter mail. Mailers who are not satisfied with the prescribed level of manual processing could send DVDs as flats and would get the second ounce free. If this remedy were adopted, mailers could choose the type of mail service that gives them the level of protection they desire.

b. An operational remedy that would eliminate all special treatment of DVDs and impose rates that apply to the mailpiece, *e.g.*, the non-machinable surcharge and second ounce rates.

This remedy eliminating all special treatment of DVDs would require the Postal Service to collect a non-machinable surcharge on all letter-shaped DVD mail. The Letter Round-Trip Mailer and Flat Round-Trip Mailer categories established in Order No. 718 would be eliminated and the Postal Service would impose the full charge for the second ounce of First-Class DVD flats mail.

c. An operational remedy that would require manual handling of all letter-shaped DVDs subject to certain standards.

The remedy would require the Postal Service to provide uniform manual processing to all letter-shaped DVD mail, *e.g.*, the type afforded Netflix's mail. The non-machinable surcharge would not be imposed. However, the Letter Round-Trip Mailer and Flat Round-Trip Mailer categories would not be retained.

While manual processing of DVD letter mail would be made available to all mailers on a non-discriminatory basis, it nevertheless would recognize that operational factors can affect the feasibility of providing manual processing at any point in time and that individual mailers cannot be guaranteed the exact same level of manual processing. This recognition that manual processing levels may fluctuate and vary from mailer to mailer distinguishes this operational remedy from the GameFly operational remedy that would require that each mailer receive the same

level of manual processing. Enforcement of the requirement that such manual processing be provided on a non-discriminatory basis could be facilitated by requiring the Postal Service to monitor and report manual processing levels, *e.g.*, based on IMb scans.

By the Commission.

**Shoshana M. Grove,**  
*Secretary.*

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## 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 15b1–1 and Form BD; SEC File No. 270–19, OMB Control No. 3235–0012.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (“PRA”), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for approval of extension of the previously approved collection of information provided for in Rule 15b1–1 (17 CFR 240.15b1–1) and Form BD (17 CFR 249.501) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*).

Form BD is the application form used by firms to apply to the Commission for registration as a broker-dealer, as required by Rule 15b1–1. Form BD also is used by firms other than banks and registered broker-dealers to apply to the Commission for registration as a municipal securities dealer or a government securities broker-dealer. In addition, Form BD is used to change information contained in a previous Form BD filing that becomes inaccurate.

The total industry-wide annual time burden imposed by Form BD is approximately 5,941 hours, based on approximately 15,890 responses (288 initial filings + 15,602 amendments). Each application filed on Form BD requires approximately 2.75 hours to complete and each amended Form BD requires approximately 20 minutes to complete. (288 × 2.75 hours = 792 hours; 15,602 × 0.33 hours = 5,149 hours; 792 hours + 5,149 hours = 5,941 hours.) The staff believes that a broker-dealer would have a Compliance Manager complete and file both applications and amendments on Form

<sup>9</sup>Order No. 718 at 112, ¶ 5019 (“Even if the Commission were to accept GameFly's contention that the cost differences do not justify the extent of the difference in rates paid by the mailers, such estimates are not sufficiently accurate to be used to design a rate for flat-shaped round-trip DVD mailers in the manner suggested by GameFly's rate-based remedy.”).

BD at a cost of \$279/hour. Consequently, the staff estimates that the total internal cost of compliance associated with the annual time burden is approximately \$1,657,539 per year ( $\$279 \times 5941$ ). There is no external cost burden associated with Rule 15b1-1 and Form BD.

The Commission uses the information disclosed by applicants in Form BD: (1) To determine whether the applicant meets the standards for registration set forth in the provisions of the Exchange Act; (2) to develop a central information resource where members of the public may obtain relevant, up-to-date information about broker-dealers, municipal securities dealers and government securities broker-dealers, and where the Commission, other regulators and SROs may obtain information for investigatory purposes in connection with securities litigation; and (3) to develop statistical information about broker-dealers, municipal securities dealers and government securities broker-dealers. Without the information disclosed in Form BD, the Commission could not effectively implement policy objectives of the Exchange Act with respect to its investor protection function.

Completing and filing Form BD is mandatory in order to engage in broker-dealer activity. Compliance with Rule 15b1-1 does not involve the collection of confidential information. 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 Web site, [www.reginfo.gov](http://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 email to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: April 16, 2013.

**Elizabeth M. Murphy**,  
Secretary.

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## 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 606 of Regulation NMS.  
SEC File No. 270-489, OMB Control No. 3235-0541.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) ("PRA"), the Securities and Exchange Commission ("Commission") has submitted to the office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 606 of Regulation NMS ("Rule 606") (17 CFR 242.606) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 606 (formerly known as Rule 11Ac1-6) requires broker-dealers to prepare and disseminate quarterly order routing reports. Much of the information needed to generate these reports already should be collected by broker-dealers in connection with their periodic evaluations of their order routing practices. Broker-dealers must conduct such evaluations to fulfill the duty of best execution that they owe their customers.

The collection of information obligations of Rule 606 apply to broker-dealers that route non-directed customer orders in covered securities. The Commission estimates that out of the currently 5178 broker-dealers that are subject to the collection of information obligations of Rule 606, clearing brokers bear a substantial portion of the burden of complying with the reporting and recordkeeping requirements of Rule 606 on behalf of small to mid-sized introducing firms. There currently are approximately 527 clearing brokers. In addition, there are approximately 2426 introducing brokers that receive funds or securities from their customers. Because at least some of these firms also may have greater involvement in determining where customer orders are routed for execution, they have been included, along with clearing brokers, in estimating the total burden of Rule 606.

The Commission staff estimates that each firm significantly involved in order routing practices incurs an average burden of 40 hours to prepare and disseminate a quarterly report required by Rule 606, or a burden of 160 hours

per year. With an estimated 2953<sup>1</sup> broker-dealers significantly involved in order routing practices, the total industry-wide burden per year to comply with the quarterly reporting requirement in Rule 606 is estimated to be 472,480 hours ( $160 \times 2953$ ).

Rule 606 also requires broker-dealers to respond to individual customer requests for information on orders handled by the broker-dealer for that customer. Clearing brokers generally bear the burden of responding to these requests. The Commission staff estimates that an average clearing broker incurs an annual burden of 400 hours ( $2000 \text{ responses} \times 0.2 \text{ hours/response}$ ) to prepare, disseminate, and retain responses to customers required by Rule 606. With an estimated 527 clearing brokers subject to Rule 606, the total industry-wide burden per year to comply with the customer response requirement in Rule 606 is estimated to be 210,800 hours ( $527 \times 400$ ).

The collection of information obligations imposed by Rule 606 are mandatory. The responses will be available to the public and will not be kept confidential.

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 Web site, [www.reginfo.gov](http://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 email to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: April 16, 2013.

**Elizabeth M. Murphy**,

Secretary.

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<sup>1</sup> 527 clearing brokers + 2426 introducing brokers = 2953.