SUPPORTING STATEMENT FOR NEW AND REVISED INFORMATION COLLECTIONS OMB CONTROL NUMBER 3038-0052

1. Explain the circumstances that make the collection of information necessary . Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The regulations governing designated contract markets (DCMs) were adopted pursuant to the requirements of the Commodity Futures Modernization Act of 2000 (CFMA), which significantly amended the Commodity Exchange Act (Act or CEA). The CFMA was intended to streamline and simplify regulation of derivatives trading, providing significant regulatory relief to regulated entities. Part 38 of the Commission's rules governs the activities of DCMs. The information collected thereunder is necessary for the Commission to evaluate whether entities operating as, or applying to become, DCMs comply with the foregoing requirements.

DCMs, which are open to all participants (including small retail participants) and all commodities (including physical commodities, which are more susceptible to manipulation), are subject to the comparatively highest degree of regulation under the CFMA. Nevertheless, the new regulatory system provides DCMs with much greater operational flexibility than the pre-CFMA regulatory system. Rather than the old system of prescriptive rules, entities operating as, or applying to become designated as, DCMs are required to comply with designation criteria under section 5(b) of the CEA and core principles under section 5(d) of the CEA.

DCMs are subject to 18 core principles, including: enforcing rules; listing contracts for trading that are not readily susceptible to manipulation; monitoring trading to prevent manipulation or price distortion; adopting position limits or position accountability for speculators to reduce the threat of market manipulation or congestion, especially during delivery months; adopting rules to provide for the exercise of emergency authority, in consultation with the Commission; making information concerning contract terms and conditions and the trading mechanism readily available to market authorities, market participants and the public; making public daily information regarding prices, volume, open interest and opening and closing price ranges; recording and safely storing identifying trade information; providing for the financial integrity of contracts traded and the protection of customer funds; protecting market participants from abusive practices; providing rules and facilities for alternative dispute resolution; providing fitness standards for board and committee members and others with access to the facility; providing rules to minimize conflicts of interest in the decision making process; ensuring that the composition of the governing board of a mutually owned contract market reflects market participants; maintaining records of all activities of the business of the contract market in a form and manner acceptable to the Commission for

five years; and avoiding rules that result in unreasonable restraints of trade or anticompetitive burdens on trading.

The present Acceptable Practices to Section 5(d)(15) of the Act (Core Principle 15) creates a safe harbor for DCMs with respect to Core Principle 15's requirement to minimize conflicts of interest in the decision making process. 7 USC. § 7(d)(15). In addition to outlining composition guidelines for Governing Boards, Regulatory Oversight Committees(ROC) and Disciplinary Panels of DCMs, a provision of the Acceptable Practices states that an annual report assessing the effectiveness, sufficiency, and independence of the self-regulatory organization's (SRO) regulatory program, including any proposals to remedy unresolved regulatory deficiencies must be submitted to the Commission.

2. Indicate how, by whom, and for what purpose the date would be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The Commission will continue to use all information collected under this OMB Control Number, including the Acceptable Practice of submitting the aforementioned annual report to the Commission, to determine whether DCMs, and applicants to become DCMs, are in compliance with the applicable designation criteria and core principles.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Under the proposed rules, all information provided by DCMs would be collected electronically.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The required information collected under this OMB Control Number, including the present Acceptable Practice of submitting an annual report to the Commission, is not already collected by the Commission for any other purposes, nor is it collected by any other agency, nor is the information available from any other source.

5. If the collection of information involves small business or other small entities (Item 5 of OMB From 83-I), describe the methods used to minimize burden.

The required information collected under this OMB Control Number, including the present Acceptable Practice of submitting an annual report to the Commission, does not involve any small businesses or other small entities.

6. Describe the consequence to the Federal Program or policy activities if the collection were conducted less frequently as well as any technical or legal obstacles to reducing burden.

This question is not applicable.

7. Explain any special circumstances that require the collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;

The proposed rules do not require respondents to report any information to the Commission more often than quarterly.

- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it:

In order for the Commission to adequately perform its statutory responsibility to determine whether DCMs, and applicants to become DCMs, are in compliance with the applicable designation criteria and core principles, a request for information may require the collection and presentation of information in fewer than 30 days depending on the exigency of the situation.

- requiring respondents to submit more that an original and two copies of any document;

Respondents are required to submit only single copies of documents.

- requiring respondents to retain records other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;

DCMs are required to maintain records of all activities related to their business as a contract market, in a form and manner acceptable to the Commission, for a period of five years, under Section 5(d)(17) of the CEA (Core Principle 17).

- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;

The proposed rule does not involve a statistical survey.

- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;

  The proposed rules do not involve the use of any statistical data classification that has not been reviewed and approved by OMB.

- that includes a pledge of confidentiality that is not supported by authority established in statue or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

  The proposed rule does not involve any pledge of confidentiality.

- requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

  The Commission has procedures to protect the confidentiality of an applicant's or registrant's data. These may be found at 17 CFR Part 145.

  For enforcement purposes, Commission Rule 1.31 requires that:

  "All books and records required to be kept by the (Commodity Exchange) Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the first two years of the five-year period. All such books and records shall be open to inspection by any representative of the Commission or the U.S. Department of Justice."

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice required by 5 C.F.R. 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

   The Commission has solicited comment on the paperwork burden of the Acceptable Practice of submitting an annual report to the Commission in a prior release published in the Federal Register. 71 FR 38740, 38748 (July 7, 2006). The Commission did not receive any material or sufficiently specific comment on the Acceptable Practice of submitting an annual report to the Commission.

   Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping

disclosure, or reporting format (if any, and on the data elements to be recorded, disclosed, or reported.

Opportunity for public comment is provided when regulations are initiated or amended. Contact with DCMs is maintained on a continuous and ongoing basis. A Notice of Proposed Rulemaking is attached to this statement for your review.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years—even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

No such circumstances are anticipated.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

The question in not applicable.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.

The Commission provides no assurance of confidentiality beyond that provided by the Commission's Freedom of Information Act regulations, 17 CFR Part 145.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

None of the regulations require the giving of sensitive information, as that term is used in Question 11.

12. Provide estimates of the hour burden of the collection of information. The Statement should:

- Indicate the number of respondents, frequency of response, annual hour burden and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than ten) of potential respondents is desirable. If the hour burden on respondents is expected

to vary widely because of differences in activity, size or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- If the request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

- Provide estimates of annualized cost to respondents for the hours burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting our or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.

See updated Attachment A. The annual report is a written product that assesses a DCM's self-regulatory program for the board of directors and the Commission. Such a report would set forth the DCM's regulatory program's expenses, describe its staffing and structure, catalogue disciplinary actions taken during the year, and review the performance of Disciplinary Committees and Panels. The Commission believes that most this information is readily available to DCMs, and with the exception of reviewing the performance of Disciplinary Committees and Panels, generated and compiled by DCMs in the regular conduct of business.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting form the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- The cost estimate should be split into two components; (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major costs factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software, monitoring, sampling, drilling and testing equipment, and record storage facilities.

- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate, agencies may consult with a sample of respondents (fewer than

ten), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

No new start-up or operations and maintenance costs are involved. See Attachment A.

14. Provide estimates of the annualized costs to the Federal Government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The estimate of the cost to the government per applicant/recordkeeper is about $88,000 per year. This is primarily salaries and benefits for economists and attorneys to analyze the information received, as follows: Ten full time equivalents reviewing for 20 days at 8 hours per day at an average salary of $55 per hour. The total number of hours of review time per applicant/recordkeeper is 1,600 hours and the total cost to the government per applicant is $88,000.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

This question does not apply.

16. For collection of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis, and publication. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

This question does not apply.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

This question does not apply.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

This question does not apply.

Attachment A

Collection 3038-0052

Part 38 Establishing Procedures for
Designated Contract Markets and Applicants Seeking Designation

Report	Estimated Number of Respondents	Reports Annually by Each	Total Annual Responses	Estimated Average Number of Hours Per Response	Annual Reporting Burden
Designation and Compliance	13	NA	NA	300	3900
Annual	13	1	13	70	910