

SUPPORTING STATEMENT FOR NEW AND REVISED INFORMATION COLLECTIONS

OMB CONTROL NUMBER 3038-0051

Justification

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.

Under the Commodity Futures Modernization Act of 2000, certain transactions must be cleared by a registered derivatives clearing organization (“DCO”). To be registered as a DCO, an entity must apply and demonstrate that its rules and procedures satisfy fourteen core principles dealing with financial resources, participant and product eligibility, risk management, settlement procedures, treatment of client funds, default rules and procedures, rule enforcement, system safeguard, governance, reporting, recordkeeping, public information, information sharing, and competition. The information collected by the Commission is necessary for the Commission to evaluate whether an applicant meets the foregoing criteria.

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

Each applicant for DCO registration must file an application submission demonstrating that its rules and procedures satisfy the fourteen core principles. The information collected is necessary to enable the Commission to determine if the applicant meets the requirements for registration as a DCO.

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.

The required information is required to be filed 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 is not already collected by the Commission for any other purposes, nor is it collected by any other agency, nor is the information available for public disclosure through any other source.

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

The required information does not involve any small organizations.

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 does not apply.

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;

DCOs or applicants for registration are not required to report any information to the Commission more often than quarterly, or even as often as quarterly.

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

This requirement does not apply.

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

Applicants are required to submit only a single copy of an application to the Commission.

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

This question does not apply.

- 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;

No statistical surveys are involved.

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

The requirements do not involve use of any statistical data classification.

- that includes a pledge of confidentiality that is not supported by authority established in statute 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 requirements do not involve a pledge of confidentiality regarding the collection of data.

- 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 agency has procedures to protect the confidentiality of an applicant's information. These are set forth in 17 CFR Part 145.

For enforcement purposes, Commission Regulation 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 2 years of the 5-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.

No comments have ever been received.

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.

No comments have ever been received.

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.

There are no such circumstances.

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

This question does not apply.

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 above that provided by the agency's Freedom of Information Act regulations, 17 C.F.R. 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.

This question does not apply. None of the required information is sensitive, 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 out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.

See Attachment A.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from 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 is, rounded, \$138,000 per year. This is primarily salaries and benefits for attorneys to analyze the information received as follows: 4 full time equivalents reviewing for 90 days at 8.5 hours per day at an average salary of \$100,000. The total number of hours of review time per applicant is 3,060 and the total cost per applicant is \$138,000 (4 x \$100,000 x (90 days of review/approximately 261 annual paid work days.))

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

Part 39 Submission Requirements for  
Applicants for Registration as Derivatives Clearing Organizations

Estimated # of Applicants or Recordkeepers Per Year	Reports Annually by Each	Total Annual Responses	Estimated Average Number of Hours Per Response	Estimated Total Number of Hours of Annual Burden in Fiscal Year
10	1	10	200	2,000