

## SUPPORTING STATEMENT FOR NEW AND REVISED INFORMATION COLLECTIONS

OMB CONTROL NUMBER 3038-####

### 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.

Section 725(b) of the Dodd-Frank Act amended Section 5b of the CEA (7 U.S.C. 7a-1(a)) to require a DCO to designate an individual as a CCO who will be responsible for filing an annual report that describes the DCO's compliance activities. Accordingly, the Commission will propose regulations that would require the appointment of a CCO, the filing of an annual report and certain recordkeeping requirements. The information that would be collected is necessary for the Commission to evaluate the performance of the CCO and whether DCOs are complying Commission regulations.

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.

The information would be analyzed by Commission staff to determine whether DCOs are in compliance Commission regulations.

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 would 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 purpose, collected by any other agency, or 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 From 83-I), describe the methods used to minimize burden.

The required information 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.

The CEA, as amended by the Dodd-Frank Act, requires a report to be submitted annually to the Commission. If the collection was conducted less frequently, it would not comport with the requirements of the CEA. In addition, the Commission requires an annual report to obtain timely information that is necessary to ensure that DCOs remain in compliance with Commission regulations.

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 regulations would require DCOs to report information to the Commission on an annual basis but allow the Commission to collect information at other times as necessary. This provision is designed to address the need for the Commission to ensure that DCOs remain in compliance with Commission regulations.

- 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 assess adequately whether a DCO is in compliance Commission regulations, a DCO might be required to prepare a written response to a collection of information in fewer than 30 days depending on the exigency of the situation.

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

DCOs 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;

The CEA explicitly requires record retention by DCOs for more than three years. A DCO is required by Core Principle K to maintain records of all activities related to its business as a DCO in a form and manner that is acceptable to the Commission for a period of not less than 5 years.

- 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 a respondent'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.

The Commission is affirmatively seeking comment from the public and federal agencies on the proposed information collection. A copy of the proposed regulation as it appears in the *Federal Register* (75 FR 77576 December 13, 2010 ), including the explicit solicitation of comment on all aspects of the reporting and recordkeeping burdens imposed, is accompanied with this submission.

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.

Commission staff has held meetings with persons outside the agency to discuss the DCO core principles generally. In addition, Commission staff has talked to chief compliance officers about the annual report.

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.

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 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.

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.

In addition to other research, Commission staff discussed the costs associated with the annual report with the CCO a DCO. The results are reflected in Appendix A.

13. Provide an estimate of the total annual cost burden to respondents or record keepers 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.

The proposed regulations require each respondent to retain: (1) a copy of the policies and procedures adopted in furtherance of compliance with the CEA; (2) copies of materials,

including written reports provided to the board of directors in connection with the board's review of the annual report; and (3) any records relevant to the annual report, including, but not limited to, work papers and other documents that form the basis of the report, and memoranda, correspondence, other documents, and records that are (1) created, sent or received in connection with the annual report and (2) contain conclusions, opinions, analyses, or financial data related to the annual report. Staff believes the cost of keeping these electronic documents will not exceed more than \$1000 annually.

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 respondent is about \$464 per year. This is primarily salaries and benefits for staff to analyze the information received, as follows: one full time equivalent reviewing, for 8 hours each, twelve annuals report at an average salary of \$58 per hour.

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

Financial Resource Reporting Requirements  
For Derivatives Clearing Organizations

Estimated # of Respondents 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	Estimated Annual Cost Per Respondent
12	1	12	40-80	480-960	\$4,000 to \$8,000