

## SUPPORTING STATEMENT

### FOR THE PAPERWORK REDUCTION ACT SUBMISSION FOR A NEW INFORMATION COLLECTION

#### “Regulation SB SEF – Registration and Regulation of Security-Based Swap Execution Facilities”

#### A. JUSTIFICATION

##### 1. Necessity of Information Collection

On July 21, 2010, the President signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) into law.<sup>1</sup> The Dodd-Frank Act was enacted, among other things, to promote the financial stability of the United States by improving accountability and transparency of the nation’s financial system.<sup>2</sup> The Dodd-Frank Act amends the Securities Exchange Act of 1934 (“Exchange Act”) to require, among other things, the following with respect to transactions in security-based (“SB”) swaps regulated by the Securities and Exchange Commission (“Commission”): (1) transactions in SB swaps must be cleared through a clearing agency if they are of a type that the Commission determines must be cleared, unless an exemption from mandatory clearing applies;<sup>3</sup> (2) if the SB swap is subject to the clearing requirement, the transaction must be executed on an exchange or on a security-based swap execution facility (“SB SEF”) registered under Section 3D of the Exchange Act or a SB SEF exempt from registration under Section 3D(e) of the Exchange Act, unless no SB SEF or exchange makes such SB swap available for trading or the SB swap transaction is subject to the clearing exception in Section 3C(g) of the Exchange Act;<sup>4</sup> and (3) transactions in SB swaps (whether cleared or uncleared) must be reported to a registered security-based swap data repository (“SDR”) or the Commission.<sup>5</sup> The Commission is proposing Regulation SB SEF to

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<sup>1</sup> The Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, H.R. 4173).

<sup>2</sup> See Pub. L. No. 111-203 Preamble.

<sup>3</sup> See Pub. L. No. 111-203, § 763(a) (adding Section 3C(a)(1) of the Exchange Act).

<sup>4</sup> See Pub. L. No. 111-203, § 763(a) (adding Section 3C(h) of the Exchange Act). See also Pub. L. No. 111-203, § 761(a) (adding Section 3(a)(77) of the Exchange Act), defining the term “security-based swap execution facility.” The Dodd-Frank Act amends the CEA to provide for a similar regulatory framework with respect to transactions in swaps regulated by the CFTC.

<sup>5</sup> See Pub. L. No. 111-203, § 761(a)(75) (adding Section 3(a)(75) of the Exchange Act) (defining the term “security-based swap data repository”). The registration of an SDR and the reporting of SB swaps are the subject of separate Commission rulemakings. See Securities Exchange Act Release Nos. 63347 (November 19, 2010), 75 FR 77306 (December 10, 2010) (File No. S7-35-10) and 63346 (November 19, 2010), 75 FR 75208

implement the provisions of Title VII of the Dodd-Frank Act relating to the registration and regulation of SB SEFs.

In general, Regulation SB SEF would provide for the collection of information in the broad categories: (1) registration requirements for SB SEFs and Form SB SEF; (2) rule writing requirements for SB SEFs; (3) reporting requirements for SB SEFs; (4) recordkeeping required under Regulation SB SEF; (5) timely publication of trading information requirement for SB SEFs; (6) rule filing and product filing processes for SB SEFs; (7) requirements relating to the SB SEF's chief compliance officer; (8) surveillance system requirements for SB SEFs; (9) access by non-registered eligible contract participants ("ECPs"); and (10) composite indicative quote and executable bids and offers. The collection of information in Regulation SB SEF is necessary to establish a regulatory framework for registration and regulation of SB SEFs and to implement the 14 core principles in the Dodd-Frank Act applicable to SB SEFs.

## **2. Purpose and Use of the Information Collection**

The information reporting pursuant to proposed Regulation SB SEF will fulfill the Congressional mandate for the Commission to help provide for, among other things: (1) the appropriate registration of SB SEFs; (2) the monitoring and oversight of SB SEFs to determine compliance with the Exchange Act; (3) the maintenance of accurate and updated information regarding SB SEFs and, as applicable, the SB swaps market; (4) the establishment of rules, policies and procedures to help SB SEFs comply with the Exchange Act; (5) the detection and deterrence of fraudulent and manipulative acts; (6) the integrity of trading and trading information on SB SEFs and in the SB swaps market and the accurate reconstruction and investigation thereof; (7) the appropriate and timely publication of trading information; (8) the review of new and amended rules on a SB SEF or new products to be made available and/or traded on a SB SEF; (9) the financial and operational integrity of a SB SEF; (10) appropriate access to the SB SEF and the maintenance of appropriate risk management controls, policies and procedures to address access by some unregistered market participants; and (11) the creation and dissemination of trading information to provide the SB swaps market a certain level of price transparency. In addition, the purpose of the information collection is also necessary to help the Commission to carry out its required oversight of SB SEFs and the SB swaps market.

## **3. Consideration Given to Improved Information Technology**

Proposed Regulation SB SEF is drafted to utilize information technology in the collection of information. As proposed, Regulation SB SEF provides for, among other things, the use of technology to electronically register, file and report information required by many of the collection of information requirements. Over time, the Commission expects that the collection of information burden will be reduced due to future technology enhancements. The Commission is not aware of any technical or legal obstacles to reducing the burden through the use of improved information technology.

#### **4. Duplication**

In conducting this rulemaking, the Commission consulted and coordinated with the Commodity Futures Trading Commission (“CFTC”) and other prudential regulators for the purposes of assuring regulatory consistency and comparability, to the extent possible. The Commission also has identified existing Commission rules or Exchange Act provisions that would otherwise be applicable to SB SEFs and has sought to reduce unnecessary and additive regulation to the extent possible and consistent with the public interest and the federal securities laws.

#### **5. Effect on Small Entities**

Not applicable. Proposed Regulation SB SEF would not have a significant economic impact on a substantial number of small entities.

#### **6. Consequences of Not Conducting Collection**

Collecting the information on a less frequent basis would frustrate the purposes of the Congressional mandate to provide for the registration and regulation of SB SEFs and compliance with the core principles applicable to SB SEFs in the Exchange Act, as amended.

#### **7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)**

The Commission believes that the Regulation SB SEF is consistent with 5 CFR 1320.5(d)(2) and necessary to implement the Dodd-Frank Act.

#### **8. Consultation Outside the Agency**

The Commission has been coordinating extensively with the CFTC as well as various participants in the swaps industry in formulating proposed Regulation SB SEF. Further, the Commission has consulted with industry participants for many of the collections of information that would be required by proposed Regulation SB SEF and has incorporated what it has learned as a result of these consultations into its burden estimates.

The Commission has issued a release soliciting comment on the new “collection of information” requirements and associated paperwork burdens. A copy of the release is attached. Comments on Commission releases are generally received from registrants, investors, and other market participants. In addition, the Commission and staff participate in ongoing dialogue with representatives of various market participants through public conferences, meetings and informal exchanges. Any comments received on this proposed rulemaking will be posted on the Commission’s public website, and made available through <http://www.sec.gov/comments/s7-06-11/s70611.shtml>. The Commission will consider all comments received prior to publishing the final rule, and will explain in any adopting release how the final rule responds to such comments, in accordance with 5 C.F.R. 1320.11(f).

**9. Payment or Gift**

Not applicable.

**10. Confidentiality**

To the extent that the Commission receives confidential information pursuant to proposed Regulation SB SEF, such information would be kept confidential to the extent possible and as permitted by law, including the provisions of the Freedom of Information Act.

**11. Sensitive Questions**

Not applicable.

**12. Burden of Information Collection**

The collection of information associated with the proposed Regulation SB SEF would apply to entities seeking to register as SB SEFs. In the Dodd-Frank Act, Congress incorporated into the Exchange Act a definition of SB SEF and mandated the registration and regulation of these new facilities. There currently are no registered SB SEFs. Based on conversations with the CFTC and industry sources, the Commission preliminarily believes that approximately 10 to 20 entities could seek to register as SB SEFs and thus be subject to the collection of information requirements of these proposed rules. The Commission is using the higher estimate of 20 SB SEFs for this PRA analysis.

In addition, proposed Rules 813(c) and 814(a) would impose collection of information burdens on SB SEF participants. Based on conversations with industry sources, the Commission preliminarily believes that there could be a total of 275 persons that could become SB SEF participants and would thus be subject to the collection of information requirements of the proposed rules.<sup>6</sup>

Except with regard to the collection of information burdens imposed on SB SEF participants pursuant to proposed Rules 813(c) and 814(a), as discussed further in the sections of this PRA discussing the reporting and recordkeeping requirements of Regulation SB SEF, the respondents subject to the collection of information burdens associated with proposed Regulation SB SEF would be SB SEFs.

As discussed below, the Commission preliminarily believes that the total one-time hourly

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<sup>6</sup> 275 = 50 (estimated number of SB swap dealers that would be SB SEF participants) + 5 (estimated number of major SB swap participants that would be SB SEF participants) + 10 (estimated number brokers that would be SB SEF participants) + 210 (estimated number of ECPs that would be SB SEF participants).

burden for all SB SEFs and SB SEF participants combined pursuant to the requirements under Regulation SB SEF is equal to 264,801 hours. The Commission preliminarily believes that annual ongoing burden for all SB SEFs and SB SEF participants combined pursuant to the requirements under Regulation SB SEF are equal to 165,632 hours.

A. Registration Requirements for SB SEFs and Form SB SEF

Initial filings on Form SB SEF by a prospective SB SEF seeking to register with the Commission pursuant to proposed Rule 801 would be made on a one-time basis. As discussed above, no SB SEFs currently are registered with the Commission and the Commission preliminarily estimates that 20 entities initially would seek to register with the Commission as SB SEFs. The Commission preliminarily estimates that an applicant would incur an average burden of 100 hours to prepare and file an initial Form SB SEF, including all exhibits thereto, except Exhibits F and H requiring certain financial reports, and Exhibit P requiring certain opinions of counsel, which are discussed separately below. Therefore, the Commission preliminarily estimates that the aggregate one-time burden for all respondents to file the initial Form SB SEF, including all exhibits thereto, except Exhibits F and H requiring certain financial reports and Exhibit P requiring opinions of counsel, would be 2,000 hours.<sup>7</sup>

Exhibits F and H to proposed Form SB SEF would require an applicant to submit an annual financial report that would have to satisfy a number of requirements, including the requirement that a registered public accounting firm that is qualified and independent in accordance with Rule 2-01 of Regulation S-X audit each financial report relating to the SB SEF (unaudited for certain affiliated entities). In connection with its efforts to register as a SB SEF with the Commission on proposed Form SB SEF, an applicant would incur an initial burden to generate such financial reports. The Commission preliminarily estimates that the financial reports relating to the SB SEF would generally require, on average, 500 hours per respondent to complete. Additionally, the Commission estimates that it would take 40 hours to compile, review, and submit these reports. However, as proposed, all of these reports would be required to be provided in XBRL, as required in Rules 405(a)(1), (a)(3), (b), (c), (d) and (e) of Regulation S-T. This would create an additional burden on respondents. The Commission preliminarily estimates, based on its experience with other data tagging initiatives, that these requirements would add an additional burden of an average of 54 hours per respondent. Thus, for complying with the financial statement requirements under Exhibits F and H in connection with an initial application on proposed Form SB SEF, the Commission estimates an aggregate total initial burden of 11,880 hours.<sup>8</sup>

**The total one-time reporting burden for all SB SEFs to complete the initial filing of**

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<sup>7</sup> 2,000 hours = 20 (number of SB SEF respondents) x 100 hours (initial hourly burden to comply with Form SB SEF, except for Exhibits F, H and P).

<sup>8</sup> 11,880 hours = 20 (number of SB SEF respondents) x 594 hours (500 hours for audited SB SEF financial statements + 40 hours for unaudited financial statements of affiliated entities + 54 hours for XBRL formatting of submission).

**Form SB SEF, including Exhibits F and H, would be 13,880 hours (2,000 hours + 11,880 hours) (4,627 hours amortized over 3 years).**

Pursuant to the requirements of proposed Rule 801(e), Exhibit P to proposed Form SB SEF would require an applicant that is controlled by any other person to provide an opinion of counsel that any person that controls such SB SEF has consented to and can, as a matter of law, provide the Commission with prompt access to its books and records, to the extent such books and records are related to the activities of the SB SEF, and submit to onsite inspection and examination by representatives of the Commission with respect to the activities of the SB SEF. This creates an additional burden for SB SEFs controlled by other persons. The Commission preliminarily estimates that this additional burden would add 1 hour for each affected SB SEF. The Commission preliminarily estimates that all 20 SB SEFs would have to comply with the opinion of counsel requirements of Exhibit P of 20 hours.<sup>9</sup>

**The total one-time reporting burden for all SB SEFs to comply with the requirements of proposed Rule 801(e) would be 20 hours (6.6667 hours amortized over 3 years).**

Pursuant to the requirements of proposed Rule 801(f), Exhibit P to proposed Form SB SEF would require a non-resident SB SEF to provide an opinion of counsel that the SB SEF can, as a matter of law, provide the Commission with access to the books and records of the SB SEF and submit to onsite inspection and examination by representatives of the Commission. This creates an additional burden for one non-resident SB SEFs. The Commission preliminarily estimates that this additional requirement creates an additional burden for one non-resident SB SEF to comply with the opinion of counsel requirements of Exhibit P of 1 hour.<sup>10</sup>

**The total one-time reporting burden for all SB SEFs to comply with the requirements of proposed Rule 801(f) would be 1 hour (.3333 hours amortized over 3 years).**

Therefore, the Commission preliminarily estimates that the total one-time burden for a SB SEF to prepare and file the initial Form SB SEF, including all exhibits thereto except for Exhibit P would be 694 hours.<sup>11</sup> In addition, SB SEFs controlled by other persons and non-resident SB SEFs would incur an additional one-time burden of 1 hour to prepare and file Exhibit P to proposed Form SB SEF. This would result in a total initial burden for all SB SEFs of

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<sup>9</sup> 20 hours = 20 (number of SB SEF respondents controlled by other persons) x 1 (hourly burden to comply with Exhibit P).

<sup>10</sup> 1 hour = 1 (number of non-resident SB SEF respondents) x 1 (hourly burden to comply with Exhibit P).

<sup>11</sup> 694 hours = 100 hours to comply with Form SB SEF except for Exhibits F, H and P + 500 hours for audited SB SEF financial statements + 40 hours for unaudited financial statements of affiliated entities + 54 hours for XBRL formatting of submission.

13,901 hours.<sup>12</sup>

In addition to the one-time burdens above, the Commission preliminarily estimates that each SB SEF would have ongoing annual burdens to comply with the registration provisions of Regulation SB SEF.

The Commission preliminarily estimates that each of the 20 SB SEF respondents would have to file four amendments to Form SB SEF pursuant to proposed Rules 802(a) and (b) per year, and that each SB SEF would incur an average burden of 25 hours to prepare each amendment pursuant to proposed Rules 802(a) and (b), for a total annual burden of 100 hours per respondent.

**The total annual reporting burden for all SB SEFs to comply with the requirements of proposed Rules 802(a) and (b) would be 2,000 hours (20 SB SEFs x 100 hours).**

The Commission preliminarily believes that two registered SB SEFs that are controlled by other persons out of all registered SB SEFs that are controlled by other persons per year would be required to file an amendment to Exhibit P to Form SB SEF pursuant to proposed Rule 802(c) due to changes in the legal or regulatory framework of any person that controls such SB SEFs. The Commission preliminarily estimates that a SB SEF controlled by another person would incur an average burden of 1 hour to prepare an amended Exhibit P pursuant to proposed Rule 802(c) per year and that all SB SEFs controlled by other persons would incur an aggregate burden of 2 hours<sup>13</sup> per year to prepare amended Exhibit Ps pursuant to proposed Rule 802(c).

**The total annual reporting burden for two SB SEFs to comply with the requirements of proposed Rule 802(c) would be 2 hours.**

The Commission preliminarily believes that one non-resident SB SEF would be required to file one amendment to Exhibit P to Form SB SEF pursuant to proposed Rule 802(d) per year. The Commission preliminarily estimates that one non-resident SB SEF would incur an average burden of 1 hour to prepare each amended Exhibit P pursuant to proposed Rule 802(d) per year, and that this estimate represents the aggregate burden for all non-resident SB SEFs per year.

**The total annual reporting burden for one SB SEF to comply with the requirements of proposed Rule 802(d) would be 1 hour.**

The Commission believes that each SB SEF would file one update to Form SB SEF

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<sup>12</sup> 13,901 = (20 (number of SB SEF respondents) x 694 hours (total initial burden to comply with Form SB SEF except for Exhibit P)) + (20 (number of SB SEF respondents controlled by other persons) x 1 hour (total initial burden to comply with Exhibit P)) + (1 (number of non-resident SB SEF respondents) x 1 hour (total initial burden to comply with Exhibit P)).

<sup>13</sup> 2 = 2 (number of SB SEFs controlled by other persons required to file an amended Exhibit P pursuant to proposed Rule 802(c) per year) x 1 hour (total annual burden to file an amended Exhibit P).

pursuant to proposed Rule 802(f) per year. The Commission preliminarily estimates that each SB SEF would incur an average reporting burden of 50 hours to prepare each annual update to the Form SB SEF pursuant to proposed Rule 802(f).

**The total annual reporting burden for all SB SEFs to comply with the requirements of proposed Rule 802(f) would be 1,000 hours.**<sup>14</sup>

The Commission preliminarily estimates that the preparation and filing of supplemental information pursuant to proposed Rule 803(a) generally would involve photocopying existing documents and therefore should take less than one-half hour per response. The Commission similarly preliminarily estimates that where a SB SEF chooses to comply with the requirements of proposed Rule 803(b), which relates to supplemental information being made available continuously on the SB SEF's website, instead of proposed Rule 803(a), which relates to filing of the actual supplemental information, the response required by proposed Rule 803(b) should take less than one-half hour as well. The Commission preliminarily estimates that each SB SEF would make approximately 15 filings on an annual basis pursuant to proposed Rules 803(a) and (b) combined.

**Therefore, the Commission estimates that the total annual reporting burden under proposed Rule 803 for all SB SEFs would be 150 hours.**<sup>15</sup>

Proposed Rule 804 would require that a SB SEF provide the Commission notice of withdrawal of registration and file an amended Form SB SEF to update any inaccurate information at the time of such notice of withdrawal. The Commission preliminarily estimates that one SB SEF per year would seek to withdraw its registration with the Commission and therefore be subject to the collection of information requirements in proposed Rule 804. The Commission preliminarily estimates that a SB SEF would incur an average burden of 1 hour to prepare and file with the Commission a notice of withdrawal of registration.

**The Commission estimates that the annual reporting burden for all respondents pursuant to proposed Rule 804 would be 1 hour.**

The Commission preliminarily estimates that the total annual hourly burden for all SB SEFs combined to comply with the registration requirements under Regulation SB SEF would be 3,154 hours and the total one-time hourly burden would be 13,901 hours.

#### B. Rule-writing Requirements for SB SEFs

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<sup>14</sup> 1,000 hours = 20 (number of SB SEF respondents) x 1 (number of filings per respondent) x 50 hours (burden per filing).

<sup>15</sup> 150 hours = 20 (number of SB SEF respondents) x 15 (number of filings per respondent) x .5 hours (burden per filing).



The proposed rules that would require a SB SEF to establish rules, policies and procedures to meet the requirements of various proposed rules in Regulation SB SEF are 809(c), 810(b), 811(a)(2) and (3), 811(b)(1), (b)(5), 811(c)-(d), 811(f)-(g), 811(i), 813(a), (c), (d), 814(a), 815(a), 816(a)-(b), 818(d), 820(a), 820(c), and 822(a)(1). The Commission believes that a SB SEF would spend an average of 10 hours to draft each rule, policy or procedure required to be established under Regulation SB SEF and that the SB SEF would handle this work internally.

**The Commission preliminarily believes that the above-referenced proposed rules, policies and procedures that a SB SEF would be required to draft under proposed Regulation SB SEF would carry a one-time recordkeeping burden of 220 hours per respondent (73.33 hours amortized over 3 years), for a maximum total of 4,400 hours (1,467 amortized over 3 years).<sup>16</sup>**

The Commission preliminarily estimates that once a SB SEF has drafted the written rules, policies and procedures that it is required to establish pursuant to Regulation SB SEF, a SB SEF would spend approximately 10 hours per month to review its written rules, policies and procedures to ensure that they are up-to-date and remain in compliance with proposed Regulation SB SEF and to prepare any necessary new or amended rules, policies and procedures.

**The Commission preliminarily estimates that the provisions of proposed Regulation SB SEF requiring that a SB SEF establish certain rules, policies and procedures would result in an ongoing annual recordkeeping burden of 120 hours per respondent,<sup>17</sup> for a total estimated ongoing annual burden of 2,400 hours.<sup>18</sup>**

### C. Reporting Requirements for SB SEFs

Proposed Rule 814: Proposed Rule 814(a) would require a SB SEF to require its participants to provide information or documents to the SB SEF upon request. Proposed Rule 814(a) also would require the SB SEF to require its participants to provide information or documents to any representative of the Commission upon request.

As noted above, the Commission estimates that each SB SEF would have 275 participants. The Commission estimates that each of these estimated 275 participants would be a participant of each SB SEF and would have to comply with the collection of information in proposed Rule 814(a). The Commission estimates that it would require an average of 25 hours per response for a SB SEF participant to compile and transmit documents and information requested pursuant to proposed Rule 814(a) and that such requests would occur a total of 4 times

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<sup>16</sup> 4,400 hours = 20 (number of SB SEF respondents) x 220 hours (one-time burden to draft 22 proposed rules, policies and procedures).

<sup>17</sup> 120 hours = 10 hours (monthly burden) x 12 (months per year).

<sup>18</sup> 2,400 hours = 20 (number of SB SEF respondents) x 120 hours (annual burden to update rules, policies and procedures required by proposed Regulation SB SEF).

each year per SB SEF participant.<sup>19</sup>

**The Commission estimates that the annual reporting burden on each SB SEF participant to report documents or information pursuant to proposed Rule 814(a) would be 100 hours<sup>20</sup> and the annual aggregate burden on SB SEF participants for all SB SEFs would be 27,500 hours.<sup>21</sup>**

Proposed Rule 814(b)(2) would require a SB SEF to provide information or documents to any representative of the Commission upon request. The Commission estimates that it would request information or documents under proposed Rule 814(b)(2) two times per year, per respondent. The Commission estimates that it would require an average of 25 hours per response for a SB SEF to compile and transmit documents and information requested by the Commission, for an annual hourly burden of 50 hours per respondent.

**The Commission preliminarily estimates the aggregate annual reporting burden on a SB SEF to comply with requests for documents or information pursuant to proposed Rule 814(b)(2) would be 1,000 hours.<sup>22</sup>**

Proposed Rule 814(b)(3) would require a SB SEF to have the capacity to carry out such international information-sharing agreements as the Commission may require. If so directed by the Commission, a SB SEF could be required to carry out one or more international-information sharing agreements. The Commission estimates, for PRA purposes only, that SB SEFs would need to carry out such an agreement, on average, once per year. The Commission further estimates that each such agreement could require 40 hours per respondent to prepare, review and finalize. The Commission therefore estimates that the paperwork burden for SB SEFs associated with having the capacity to carry out international information-sharing agreements as the Commission may require pursuant to proposed Rule 814(b)(3) would be 800 hours.<sup>23</sup>

**The Commission therefore estimates that the total annual reporting burden for SB SEFs to comply with the requirements above in proposed Rule 814(b)(3) would be 800**

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<sup>19</sup> The estimate of 4 annual requests assumes that each SB SEF participant would receive, on average, one request for information per calendar quarter.

<sup>20</sup> 100 hours = 4 (number of requests annually) x 25 (annual hourly burden for each participant to comply with SB SEF rules imposed pursuant to proposed Rule 814(a)).

<sup>21</sup> 27,500 hours = 4 (total number of annual requests made of a SB SEF participant directly or indirectly) x 25 (hours per respondent) x 275 (number of SB SEF participants required to comply with proposed rules imposed by a SB SEF pursuant to proposed Rule 814(a)).

<sup>22</sup> 1,000 hours = 50 (annual hourly burden to comply with proposed Rule 814(b)(2)) x 20 (number of SB SEF respondents).

<sup>23</sup> 800 hours = 40 (annual hourly burden to enter into an international information-sharing agreement pursuant to proposed Rule 814(b)(3)) x 20 (number of SB SEF respondents). The Commission believes there would be no separate initial burden.

**hours.**

In addition, the Commission preliminarily estimates that a SB SEF would be required to provide information pursuant to an international information-sharing agreement a total of twice per year and that, similar to complying with a Commission request for information pursuant to other provisions of proposed Rule 814, it would require 25 hours per response to comply with a request for information, for a total annual burden of 50 hours per year per SB SEF. The Commission believes that this work, should it be required, would be conducted internally. The Commission therefore estimates that aggregate annual reporting burden on SB SEFs associated with reporting under international information sharing agreements entered into under proposed Rule 814(b)(3) would be 1,000 hours.<sup>24</sup>

**The Commission therefore estimates that the total annual reporting burden for SB SEFs to comply with the requirements above in proposed Rule 814(b)(3) would be 1,000 hours.**

The Commission therefore estimates the aggregate annual paperwork burden associated with proposed Rule 814 to be 27,500 hours for SB SEF participant respondents and 2,800<sup>25</sup> hours for SB SEF respondents.

Proposed Rule 816: Proposed Rule 816 would require a SB SEF to notify the Commission of any exercise of its emergency authority, and within two weeks following cessation of an emergency, submit to the Commission a report explaining the basis for declaring an emergency, how conflicts of interest were minimized, and the extent to which the SB SEF considered the effect of its emergency action on the markets for the SB swap and any security or securities underlying the SB swap.

**The Commission estimates that the time that would be necessary for a SB SEF to prepare and transmit the notice and report regarding emergency authority pursuant to proposed Rule 816 would be 40 hours per respondent for a total annual reporting burden of 800 hours.<sup>26</sup>**

Proposed Rule 818: Proposed Rule 818(e) would require a SB SEF to report to the Commission such information as the Commission may, from time to time, determine to be necessary to perform the duties of the Commission. The Commission preliminarily estimates

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<sup>24</sup> 1,000 hours = 50 (annual hourly burden to comply with reporting requirements pursuant to international information-sharing agreements x 20 (number of SB SEF respondents).

<sup>25</sup> 2,800 hours = 1,000 (aggregate burden on SB SEF respondents to comply with proposed Rule 814(b)(2)) + 1,800 hours (aggregate burden on SB SEF respondent to comply with proposed Rule 814(b)(3)).

<sup>26</sup> 800 hours = 40 (annual hourly burden to comply with proposed Rule 816) x 20 (number of SB SEF respondents).

that each request pursuant to proposed Rule 818 would require 20 hours to collect, review, draft any accompanying analysis or report, and transmit, which would result in an annual hourly burden of 20 hours per SB SEF respondent.

**The Commission estimates that the aggregate annual reporting burden on SB SEFs associated with proposed Rule 818(e) would be 400 hours.<sup>27</sup>**

Proposed Rule 818(f) would require a SB SEF to provide to any representative of the Commission, upon request, copies of documents required to be kept and preserved pursuant to the recordkeeping requirements of proposed Rule 818. The Commission preliminarily estimates that it would request information or documents under proposed Rule 818(f) twice per year and would require no more than 25 hours per response to compile and transmit, resulting in an annual hourly burden of 50 hours per SB SEF respondent.<sup>28</sup>

**The Commission estimates the annual aggregate reporting burden associated with proposed Rule 818(f) would be 1,000 hours.<sup>29</sup>**

The Commission therefore estimates the total annual reporting burden on SB SEFs associated with proposed Rule 818 would be 1,400 hours.<sup>30</sup>

Proposed Rule 822: Proposed Rule 822(a)(2) would require a SB SEF to submit to the Commission an annual objective review of the capability of SB SEF systems that support or are integrally related to the performance of the SB SEF's activities. The Commission believes that the annual burden per respondent of conducting an internal audit under this proposed rule would be approximately 625 hours. Further, the Commission's experience with the ARP program has indicated that an additional 200 hours per respondent per year would be required on average to oversee and establish the independent review of these audits.

**The Commission estimates the aggregate annual reporting burden on SB SEFs to**

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<sup>27</sup> 400 hours = 20 (annual hourly burden to comply with proposed Rule 818(e)) x 20 (number of SB SEF respondents). The Commission believes there would be no separate initial burden.

<sup>28</sup> Based on its experience in requesting information from exchanges for a variety of purposes, the Commission estimates that it would require an average of 25 hours per response for a SB SEF to compile and transmit documents and information requested by the Commission.

<sup>29</sup> 1,000 hours = 25 (annual hourly burden to comply with proposed Rule 818(f)) x 20 (number of SB SEF respondents).

<sup>30</sup> 1,400 hours = 400 (hourly burden to comply with proposed Rule 818(e)) + 1,000 (hourly burden to comply with proposed Rule 818(f)).

**comply with requirement to submit these reports would be 16,500 hours.**<sup>31</sup>

In addition, proposed Rule 822(a)(3) would require a SB SEF to promptly notify the Commission in writing of material systems outages and submit to the Commission within five business days of when the outage occurred a written description and analysis of the outage and any remedial measures that have been implemented or are contemplated.

**The Commission estimates that the reporting burden imposed by the requirements in proposed Rule 822(a)(3) would be 15.4 hours on average per respondent per year, for a total estimated burden of 308 hours per year for all respondents.**<sup>32</sup>

Proposed Rule 822(a)(4) would require a SB SEF to notify the Commission in writing at least thirty calendar days before implementation of any planned material systems changes. The Commission estimates that there would be an average of 60 such events per respondent per year. Based on the Commission's experience with the ARP program, the Commission estimates that each of these notices would require an average of 2 hours for a total burden for all respondents of 2,400 hours annually.<sup>33</sup> The Commission believes that this work would be conducted internally. The Commission solicits comments as to the accuracy of this estimate.

**The Commission estimates that the annual reporting burden imposed by proposed Rule 822(a)(4) would be 2,400 hours for all respondents.**

The Commission therefore preliminarily estimates that the total annual hourly reporting burden associated with proposed Rule 822 would be 19,208 hours.<sup>34</sup>

The Commission preliminarily estimates that the total annual hourly burden for all SB SEFs combined for reporting would be 24,208 hours.<sup>35</sup> There is no one-time initial hourly burden associated with the proposed reporting requirements. In addition, the Commission preliminary estimates that the total annual hourly burden on all SB SEF participants for reporting

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<sup>31</sup> 16,500 hours = 825 (annual hourly burden to comply proposed Rule 822(a)(2)) x 20 (number of SB SEF respondents).

<sup>32</sup> 308 hours = 15.4 annual hourly burden per respondent to comply proposed Rule 822(a)(3) x 20 (number of SB SEF respondents).

<sup>33</sup> 2,400 hours = 60 (notices per SB SEF) x 2 (annual hourly burden per notice) x 20 (number of SB SEF respondents).

<sup>34</sup> 19,208 hours = 16,500 (annual hourly burden to comply with proposed Rule 822(a)(2)) + 308 (annual hourly burden to comply with proposed Rule 822(a)(3)) + 2,400 (annual hourly burden to comply with proposed Rule 822(a)(4)).

<sup>35</sup> 24,208 = 2,800 (annual hourly burden to comply with proposed Rule 814) + 800 (annual hourly burden to comply with proposed Rule 816) + 1,400 (annual hourly burden to comply with proposed Rule 818) + 19,208 (annual hourly burden to comply with proposed Rule 822).

under proposed Regulation SB SEF would be 28,000 hours.

D. Recordkeeping Required Under Regulation SB SEF

The annual recordkeeping requirements that are contained in proposed Rules 818(a) and (b) are similar to the requirements that apply to SROs pursuant to Rules 17a-1(a) and (b) under the Exchange Act. The Commission preliminarily estimates that it would take a SB SEF approximately 50 hours annually to comply with proposed Rule 818(a) and (b) for an aggregate annual burden of 1,000 hours.<sup>36</sup>

**The Commission estimates that the total annual recordkeeping burden to comply with proposed Rules 818(a) and (b) is 1,000 hours.**

In addition, proposed Rule 818(c) would require a SB SEF to keep certain records with respect to trading activity on and through the SB SEF. Specifically, a SB SEF would be required to make and keep accurate, time-sequenced records of all trading interest and transactions that are received by, originated on, or executed on the SB SEF. This recordkeeping rule is similar to the audit trail requirement that applies to ATSs pursuant to Rule 302 of Regulation ATS under the Exchange Act. The Commission preliminarily estimates that the annual hourly recordkeeping burden for a SB SEF to comply with proposed Rule 818(c) would be approximately 130 hours, which would result in an aggregate annual burden of 2,600 hours.<sup>37</sup>

**The Commission estimates that the total annual recordkeeping burden to comply with proposed Rule 818(c) is 2,600 hours.**

The Commission also preliminarily estimates that a SB SEF could incur a one-time burden to set up or modify an existing recordkeeping system to comply with the proposed Rule 818. The Commission estimates that setting up or modifying a recordkeeping system would create an initial burden of 345 hours per respondent to purchase recordkeeping software, for a total initial burden of 6,900 hours.<sup>38</sup>

**The Commission estimates that the total one-time recordkeeping burden to comply with proposed Rule 818 is 6,900 hours (2,300 hours amortized over 3 years).**

Additionally, the Commission preliminarily estimates that each SB SEF may have a one-time burden to upgrade its existing systems to ensure that the audit trail component of their

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<sup>36</sup> 1,000 hours = 20 (number of SB SEF respondents) x 50 hours (annual hourly burden to comply with proposed Rule 818(a) and (b)).

<sup>37</sup> 2,600 hours = 20 (number of SB SEF respondents) x 130 hours (annual hourly burden to comply with proposed Rule 818(c)).

<sup>38</sup> 6,900 hours = 345 hours (estimated hourly burden for each SB SEF to implement a recordkeeping system) x 20 (number of SB SEF respondents).

systems complies with proposed Rule 818(c). The Commission preliminarily estimates that it would take a total of 320 hours for a SB SEF to upgrade its existing systems for an aggregate one-time hourly burden of 6,400 hours.<sup>39</sup>

**The Commission estimates that the total one-time recordkeeping burden to comply with proposed Rule 818(c) is 6,400 hours (2,134 hours amortized over 3 years).**

Therefore, the Commission preliminarily believes that the total aggregate annual hourly burden for 20 SB SEFs to comply with proposed Rule 818(a) through (c) would be approximately 3,600 hours.<sup>40</sup> The total one-time hourly burden for 20 SB SEFs to comply with proposed Rule 818 would be approximately 13,300 hours.<sup>41</sup>

In addition, proposed Rule 813(c)(1) would require a SB SEF to establish rules requiring any participant that enters any trading interest or executes any transaction on the SB SEF to maintain books and records of any such trading interest or transaction and of any position in any security-based swap that is the result of any such trading interest or transaction. The Commission preliminarily believes that proposed Rule 813(c)(1) could impose a collection of information burden on some SB SEF participants.<sup>42</sup> The Commission believes that proposed Rule 813(c)(1) could impose a new obligation to maintain books and records on those 210 ECPs that would become participants of the SB SEF.

The Commission preliminarily estimates that it would take each ECP that is a SB SEF participant approximately 40 hours on an annual basis to comply with the collection of information requirement of proposed Rule 813(c)(1) for a total annual burden for all ECP respondents combined of 8,400 hours.<sup>43</sup>

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<sup>39</sup> 6,400 hours = 320 hours (estimated one-time hourly burden for two senior programmers working 40 hours per week for four weeks at each SB SEF to upgrade systems to comply with proposed Rule 818(c)) x 20 (number of SB SEF respondents).

<sup>40</sup> 3,600 hours = 1,000 hours (estimated annual hourly burden to comply with proposed Rule 818(a) and (b)) + 2,600 hours (estimated annual hourly burden to comply with proposed Rule 818(c)).

<sup>41</sup> 13,300 hours = 6,900 hours (total estimated one-time hourly burden for all SB SEF respondents combined to set-up or modify recordkeeping software to comply with proposed Rule 818) + 6,400 hours (total estimated one-time hourly burden for all SB SEF respondents combined to modify existing systems to comply with audit trail requirements of proposed Rule 818(c)).

<sup>42</sup> The Commission also notes that proposed 809(c)(2)(i) would require non-registered ECPs to meet the recordkeeping and reporting requirements established by the SB SEF pursuant to proposed Rule 813. The collection of information associated with 809(c)(2)(i) is encompassed in the burden estimates for the collection of information associated with proposed Rule 813.

<sup>43</sup> 8,400 hours = 210 (estimated number of ECPs that could be subject to the collection of information under proposed Rule 813(c)(1)) x 40 hours (estimated annual burden for each

**The Commission estimates that the total annual recordkeeping burden for the ECPs respondents combined to comply with proposed Rule 813(c)(1) is 8,400 hours.**

The Commission also preliminarily estimates that ECPs that would be SB SEF participants could incur a one-time burden to set up or modify an existing recordkeeping system to comply with the proposed Rule 813(c)(1). The Commission estimates that setting up or modifying a recordkeeping system would create an initial burden of 345 hours per ECP, for a total initial burden of 72,450 hours<sup>44</sup> for all ECPs combined.

**The Commission estimates that the total one-time recordkeeping burden for the ECPs respondents combined to comply with proposed Rule 813(c)(1) is 72,450 hours (24,150 hours amortized over 3 years).**

E. Timely Publication of Trading Information Requirement for SB SEFs

Proposed Rule 817(a) would require a SB SEF to: (1) have the capacity to electronically capture, transmit, and disseminate information on price, trading volume, and other trading data on all SB swaps executed on or through the SB SEF; and (2) make public timely information on price, trading volume, and other trading data on SB swaps to the extent required by the Commission. The Commission preliminarily believes that each SB SEF could have a one-time hourly burden to modify its systems so that they have this functionality. The Commission estimates that this requirement would result in a one-time hourly burden of 320 hours<sup>45</sup> per SB SEF respondent, for a total burden on all SB SEFs of 6,400 hours.

**The Commission estimates that the total one-time reporting burden for SB SEFs to comply with proposed Rule 817(a) would be 320 hours (106.66 hours amortized over 3 years) per SB SEF and 6,400 hours (2,134 hours amortized over 3 years) for all SB SEFs combined.**

F. Rule Filing and Product Filing Processes for SB SEFs

Under proposed Rules 805 and 806, a SB SEF would be required to submit rule filings for new rules or rule amendments, including changes to a product's terms or conditions. The Commission estimates a total of 20 SB SEF respondents for this requirement. The Commission

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ECPs to comply with the collection of information under proposed Rule 813(c)(1)).

<sup>44</sup> 72,450 hours = 345 hours (estimated hourly burden for each SB SEF participant to implement a recordkeeping system) x 210 (estimated number of ECP SB SEF participants that could seek to set up or modify a recordkeeping system to comply with proposed Rule 813(c)(1)).

<sup>45</sup> 320 hours = 2 (number of senior programmers) x 40 (hours in a standard full-time work week) x 4 (number of weeks required).



estimates that on average these requirements would require 2.5 hours of work per rule filing, with an estimated average of 60 responses per year per respondent. This would result in a total estimated burden of 150 hours per respondent<sup>46</sup> and 3,000 hours for all the respondents annually.<sup>47</sup>

Under proposed Rules 807 and 808, a SB SEF would be required to submit filings for new products that it makes available for trading. The Commission estimates a total of 20 SB SEF respondents for this requirement. The Commission also estimates that on average these requirements would require 2.5 hours of work per product filing, with an estimated average of 34 responses per year per respondent. The Commission estimates that this would result in a total burden of 85 hours per respondent<sup>48</sup> and 1,700 hours for all the respondents annually.<sup>49</sup>

**The Commission preliminarily estimates that the total annual hourly reporting burden for all SB SEFs to prepare and submit rule filings under proposed Rules 805 and 806 would be 3,000 hours. The Commission preliminarily estimates that the total annual hourly reporting burden for all SB SEFs to prepare and submit product filings under proposed Rules 807 and 808 would be 1,700 hours.**

#### G. Requirements Relating to the SB SEF's CCO

The SB SEF's CCO would have several initial and annual paperwork burdens under proposed Rule 823(b)(6) and (7) and also under proposed Rule 823(c) through (e).

Under proposed Rule 823(b)(6) and (7), the CCO would be responsible for: (i) establishing procedures for the remediation of noncompliance issues identified by the CCO identified through any compliance office review, look-back, internal or external audit finding, self-reported error or validated complaint, and (ii) establishing appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues. The Commission estimates a total of 20 respondents for this requirement. The Commission estimates that, on average, the requirements of proposed Rule 823(b)(6) and (7) would mean that each SB SEF would expend 160 hours initially<sup>50</sup> to create the required two policies and

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<sup>46</sup> 150 hours = 60 (number of responses per year per respondent) x 2.5 hours (burden per response).

<sup>47</sup> 3,000 hours = 150 hours (annual burden per respondent pursuant to proposed Rules 805 and 806) x 20 (number of respondents).

<sup>48</sup> 85 hours = 34 (number of responses per year per respondent) x 2.5 hours (burden per response).

<sup>49</sup> 1,700 hours = 85 hours (annual burden per respondent pursuant to proposed Rules 807 and 808) x 20 (number of SB SEF respondents).

<sup>50</sup> 160 hours = 80 hours (burden per policy and procedure requirement) x 2 (number of policy and procedure requirements).

procedures, for a total estimated burden for all respondents of 3,200 hours initially.<sup>51</sup>

**The Commission estimates that the total one-time recordkeeping burden for all SB SEFs combined to comply with proposed Rule 823(b)(6) and (7) would be 3,200 hours (1,066.667 hours amortized over 3 years).**

A CCO also would be required under proposed Rule 823(c) and (d) to prepare and submit an annual compliance report to the Commission and to the SB SEF's Board. The Commission estimates that these reports would require an average of 92 hours per respondent per year. Thus, the Commission estimates a total annual burden of 1,840 hours for all respondents.<sup>52</sup>

**The Commission estimates that the total annual reporting burden for all SB SEFs combined to comply with proposed Rule 823(c) and (d) would be 1,840 hours.**

A CCO would be required under proposed Rule 823(e)(1) and (2) and Exhibits F and H to proposed Form SB SEF to submit an annual financial report that would need to satisfy a number of requirements. The Commission preliminarily estimates that the reports relating to the SB SEF would require, on average, 500 hours per respondent to complete. The Commission estimates that it would take a SB SEF 40 hours to compile, review, and submit these reports. However, all of these reports would need to be provided in XBRL, as required in Rules 405(a)(1), (a)(3), (b), (c), (d) and (e) of Regulation S-T. This would create an additional burden on respondents. The Commission preliminarily estimates that these requirements would add an additional burden of an average of 54 hours per respondent per year. Thus, for purposes of complying with the financial statement requirements under proposed Rule 823(e)(1) and (2) and Exhibits F and H to proposed Form SB SEF, the Commission estimates a total annual burden of 11,880 hours.<sup>53</sup>

**The Commission estimates that the total annual recordkeeping burden for all SB SEFs combined to comply with proposed Rule 823(e)(1) and (2) would be 11,880 hours.**

As a result, the Commission estimates that the total burdens for compliance with proposed Rule 823 would be: (i) initially, for the creation of the policies and procedures required in proposed Rule 823(b)(6) and (7), 160 hours, for a total of 3,200 hours for all respondents; and (ii) on an annual basis, for the annual compliance report and financial reports

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<sup>51</sup> 3,200 hours = 160 hours (initial burden per respondent) x 20 (number of SB SEF respondents).

<sup>52</sup> 1,840 hours = 92 hours (annual burden per respondent) x 20 (number of SB SEF respondents).

<sup>53</sup> 11,880 hours = 20 (number of SB SEF respondents) x 594 hours (500 hours for audited SB SEF financial statements + 40 hours for unaudited financial statements of affiliated entities + 54 hours for XBRL formatting of submission).

required under proposed Rule 823(c) through (e), 686 hours<sup>54</sup> per respondent for a total of 13,720<sup>55</sup> for all respondents.

The Commission preliminarily estimates that the total annual hourly burden for all SB SEFs combined for the CCO requirements in proposed Rule 823 would be 13,720 hours and the total one-time hourly burden would be 3,200.

#### H. Surveillance Systems Requirements for SB SEFs

As discussed above, proposed Rule 813(b) requires SB SEFs to have the capacity and resources to electronically monitor trading in SB swaps on its market by establishing an automated surveillance system, including through real-time monitoring of trading and use of automated alerts, to, among other things, detect and deter fraudulent or manipulative acts or practices, detect and deter market distortions or disruptions of trading, conduct real-time monitoring of trading to provide for comprehensive and accurate trade reconstruction, and collect and assess data to allow SB SEFs to respond to market abuses and disruptions.

The Commission preliminarily estimates that the average one-time initial burden per respondent of establishing an automated surveillance system compliant with these requirements would be 7,200 hours,<sup>56</sup> for a total of 144,000 hours.<sup>57</sup>

**The Commission estimates that the total one-time recordkeeping burden for SB SEFs to comply with proposed Rule 813(b) would be 144,000 hours (48,000 hours amortized over 3 years).**

The Commission further estimates that to maintain these systems, a SB SEF would have an average ongoing annual cost of 3,600 hours per respondent<sup>58</sup> for a total of 72,000 hours for all respondents.<sup>59</sup>

**The Commission estimates that the total annual recordkeeping burden for SB SEFs to comply with proposed Rule 813(b) would be 72,000.**

#### I. Access by Non-Registered Eligible Contract Participants

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<sup>54</sup> 686 hours = 594 hours for financial report + 92 hours for annual compliance report.

<sup>55</sup> 13,720 hours = 686 hours (burden per respondent) x 20 (number of SB SEF respondents).

<sup>56</sup> 7,200 hours = 1,800 (initial hours burden per employee) x 4 (number of employees).

<sup>57</sup> 144,000 hours = 7,200 hours (initial burden per respondent) x 20 (number of SB SEF respondents).

<sup>58</sup> 3,600 hours = 1,800 (annual hours burden per employee) x 2 (number of employees).

<sup>59</sup> 72,000 hours = 3,600 hours (annual burden per respondent) x 20 (number of SB SEF respondents).

Proposed Rule 809(d)(1) would require a SB SEF that permits non-registered ECPs to be participants in the SB SEF to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity. Proposed Rule 809(d)(2) would require that the risk management controls and supervisory procedures for granting access to certain ECPs as participants of the SB SEF be reasonably designed to ensure compliance with all regulatory requirements. The Commission preliminarily estimates that proposed Rule 809(d)(1) and (2) would impose a one-time collection of information burden on SB SEFs to establish or modify risk management systems, if they permit access by non-registered ECPs. The Commission estimates that each SB SEF would spend an average of 225 hours to develop or modify their systems to bring them into compliance with the proposed rule for a total one-time burden for all SB SEFs combined of 4,500 hours.<sup>60</sup>

**The Commission estimates that the total one-time recordkeeping burden for all SB SEFs to comply with the above system requirements in proposed Rule 809(d)(1) and (2) would be 4,500 hours (1,500 hours amortized over 3 years).**

The Commission also preliminarily believes that proposed Rules 809(d)(1) and (2) would impose an annual paperwork burden on each SB SEF to maintain its risk management system.

**The Commission preliminarily estimates that the ongoing annual recordkeeping burden for a SB SEF to maintain its risk management system would be 172.5 hours on average for a total annual burden for all SB SEFs combined of 3,450 hours.<sup>61</sup>**

The Commission preliminarily believes that proposed Rule 809(d) also would impose a one-time legal and compliance burden on each SB SEF to comply with the requirement to establish, document, and maintain risk management controls and supervisory procedures. The Commission preliminarily estimates that the average initial one-time legal and compliance burden would be approximately 52.5 hours per SB SEF for a total one-time legal and compliance burden for all SB SEFs combined of 1,050 hours.<sup>62</sup>

**The Commission estimates that the total one-time recordkeeping burden for all SB**

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<sup>60</sup> 4,500 hours = 225 (estimated average one-time burden to set up or modify systems to comply with collection of information under proposed Rule 809(d)) x 20 (number of SB SEF respondents).

<sup>61</sup> 3,450 hours = 225 hours (estimated average annual burden to establish or maintain risk management systems to comply with collection of information under proposed Rule 809(d)) x 20 (number of SB SEF respondents).

<sup>62</sup> 1,050 hours = 52.5 hours (estimated average one-time burden to establish, document, and maintain risk management controls and supervisory procedures to comply with collection of information under proposed Rule 809(d)) x 20 (number of SB SEF respondents).

**SEFs to comply with the above legal and compliance requirement in proposed Rule 809(d) would be 1,050 hours (350 hours amortized over 3 years).**

The Commission also preliminarily believes that proposed Rule 809(d) would impose an annual paperwork burden on SB SEFs to review and document their written risk management controls and supervisory procedures.

**The Commission estimates that a SB SEF's ongoing annual recordkeeping burden would be approximately 75 hours on average for a total annual burden for all SB SEFs combined of 1,500 hours.<sup>63</sup>**

Therefore, the Commission preliminarily estimates that the total one-time burden for all SB SEFs to comply with the collection of information requirements of proposed Rule 809(d) would be 5,550 hours and the total annual burden to comply with the proposed Rule would be 4,950 hours.

#### J. Composite Indicative Quote and Executable Bids and Offers

Proposed Rule 811(e) would require a SB SEF that operates an RFQ platform to create and disseminate through the SB SEF a composite indicative quote, made available to all participants, for SB swaps traded on or through the SB SEF and the Commission's proposed interpretation of SB SEF would require each SB SEF, at the minimum, to provide any participant with the ability to make and display executable bids or offers accessible to all participants on the SB SEF, if the participant wishes to do so.

The Commission estimates that some SB SEFs may have a one-time burden to establish or update their systems to collect and disseminate composite indicative quote information and to offer the executable bids and offers function and an ongoing annual burden to determine that such composite indicative quote mechanisms and executable bids and offers function are operating properly. The Commission does not know how many SB SEFs would have to establish or update their systems to collect and disseminate composite indicative quote information or to provide the executable bids and offer function. Therefore, for PRA purposes the Commission estimates that all of the estimated 20 SB SEF respondents would incur the paperwork burdens associated with these requirements. The Commission estimates that the total one-time burden, on average, for a SB SEF to establish or update its system to include these functions would be 80 hours for a total one-time burden for all SB SEFs combined of 1,600 hours.<sup>64</sup>

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<sup>63</sup> 1,500 hours = 75 hours (estimated average annual burden to establish, document, and maintain risk management controls and supervisory procedures to comply with collection of information under proposed Rules 809(d)(1) and (2)) x 20 (estimated number of SB SEF respondents).

<sup>64</sup> 1,600 hours = 80 hours (estimated one-time collection of information burden to establish or update systems to comply with proposed Rule 811(e) and the Commission's proposed

**The Commission estimates that the total one-time third-party disclosure burden for all SB SEFs to comply with the above system requirements in proposed Rule 811(e) would be 1,600 hours (534 hours amortized over 3 years).**

Further, the Commission preliminarily believes that a SB SEF would spend approximately 50 hours annually, on average, monitoring and updating the system to determine that the composite indicative quote and the executable bids and offers functions would be operating appropriately.

**The total annual third-party disclosure burden to all SB SEFs combined for monitoring and updating these mechanisms would be 1,000 hours.<sup>65</sup>**

### **13. Cost to Respondents**

The Commission believes that the proposed registration form SB SEF and the rules under Regulation SB SEF would create a comprehensive structure for the registration and regulation of SB SEFs, but would also impose costs on market participants. The Commission is sensitive to these costs and has identified certain costs, as described more fully below.

As discussed below, the Commission preliminarily believes that the total one-time cost for all SB SEFs and SB SEF participants combined pursuant to the requirements under Regulation SB SEF is equal to \$41,692,900. The Commission preliminarily believes that the annual ongoing burden for all SB SEFs and SB SEF participants combined pursuant to the requirements under Regulation SB SEF are equal to \$22,342,700.

#### **A. Registration Requirements for SB SEFs and Form SB SEF**

Initial filings on Form SB SEF by a prospective SB SEF seeking to register with the Commission pursuant to proposed Rule 801 would be made on a one-time basis. The Commission preliminarily estimates that the majority of the work on initial registration would be performed internally. The burden of preparing and filing the initial Form SB SEF, including all exhibits, except Exhibits F, H and Exhibit P, was included in Section 12 discussed above.

Exhibits F and H to proposed Form SB SEF would require an applicant to submit an annual financial report that would have to satisfy a number of requirements. In connection with its efforts to register as a SB SEF, an applicant would incur an initial burden to generate such financial reports. The Commission preliminarily estimates that the financial reports would require, on average, a cost of \$500,000 for independent public accounting services per

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interpretation of the definition of SB SEF as it relates to executable bids and offers functions) x 20 (estimated number of SB SEF respondents).

<sup>65</sup> 1,000 hours = 50 hours (estimated annual collection of information burden to comply with proposed Rules 811(e)) x 20 (estimated number of SB SEF respondents).

respondent and a cost of \$23,000 in outside software to submit the reports in XBRL-compatible format. Thus, for complying with the financial statement requirements under Exhibits F and H in connection with an initial application on proposed Form SB SEF, the Commission estimates an aggregate total initial burden of \$10,460,000 for all respondents.<sup>66</sup>

**The total one-time reporting burden for all SB SEFs to complete the initial filing of Form SB SEF, including Exhibits F and H, would be \$10,460,000 (\$3,486,667 amortized over 3 years).**

Pursuant to the requirements of proposed Rule 801(e), Exhibit P to proposed Form SB SEF would require an applicant that is controlled by any other person to provide an opinion of counsel that any person that controls such SB SEF has consented to and can, as a matter of law, provide the Commission with prompt access to its books and records, to the extent such books and records are related to the activities of the SB SEF, and submit to onsite inspection and examination by representatives of the Commission with respect to the activities of the SB SEF. The Commission preliminarily estimates that this additional burden would \$900 in outside legal costs for each affected SB SEF. The Commission preliminarily estimates that all 20 SB SEFs would have to comply with the opinion of counsel requirements of Exhibit P for a total cost of \$18,000.<sup>67</sup>

**The total one-time reporting burden for all SB SEFs to comply with the requirements of proposed Rule 801(e) would be \$18,000 (\$6,000 amortized over 3 years).**

Pursuant to the requirements of proposed Rule 801(f), Exhibit P to proposed Form SB SEF would require a non-resident SB SEF to provide an opinion of counsel that the SB SEF can, as a matter of law, provide the Commission with access to the books and records of the SB SEF and submit to onsite inspection and examination by representatives of the Commission. This creates an additional burden for one non-resident SB SEF. The Commission preliminarily estimates that this additional requirement creates an additional burden for one non-resident SB SEF to comply with the opinion of counsel requirements of Exhibit P for a total cost of \$900.<sup>68</sup>

**The total one-time reporting burden for all SB SEFs to comply with the requirements of proposed Rule 801(f) would be \$900 (\$300 amortized over 3 years).**

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<sup>66</sup> \$10,460,000 = 20 (number of SB SEF respondents) x \$523,000 (\$500,000 for outside accounting services for auditing SB SEF's financial statements + \$23,000 in outside software and other cost for formatting financial statement submissions in XBRL format).

<sup>67</sup> \$18,000 = 20 (number of SB SEF respondents controlled by other persons) x \$900 (cost for outside legal services to comply with Exhibit P). This burden amortized over a three year period would be \$6,000.

<sup>68</sup> \$900 = 1 (number of non-resident SB SEF respondents) x \$900 (cost for outside legal services to comply with Exhibit P).

Therefore, the Commission preliminarily estimates that the total one-time burden for a SB SEF to prepare and file the initial Form SB SEF, including all exhibits thereto except for Exhibit P would be \$523,000.<sup>69</sup> In addition, SB SEFs controlled by other persons and non-resident SB SEFs would incur an additional one-time burden of \$900 to prepare and file Exhibit P to proposed Form SB SEF. This would result in a total initial burden for all SB SEFs of \$10,478,900.<sup>70</sup>

In addition to the one-time burdens above, the Commission preliminarily estimates that each SB SEF would have ongoing annual burdens to comply with the registration provisions of Regulation SB SEF.

The Commission preliminarily believes that two registered SB SEFs that are controlled by other persons out of all registered SB SEFs that are controlled by other persons per year would be required to file an amendment to Exhibit P to Form SB SEF pursuant to proposed Rule 802(c) due to changes in the legal or regulatory framework of any person that controls such SB SEFs. The Commission preliminarily estimates that a SB SEF controlled by another person would incur an average burden of \$900 to prepare an amended Exhibit P pursuant to proposed Rule 802(c) per year and that all SB SEFs controlled by other persons would incur an aggregate burden and \$1,800 per year<sup>71</sup> to prepare amended Exhibit Ps pursuant to proposed Rule 802(c).

**The total annual reporting burden for two SB SEFs to comply with the requirements of proposed Rule 802(c) would be \$1,800 per year.**

The Commission preliminarily believes that one non-resident SB SEF would be required to file one amendment to Exhibit P to Form SB SEF pursuant to proposed Rule 802(d) per year. The Commission preliminarily estimates that one non-resident SB SEF would incur an average burden of \$900 to prepare each amended Exhibit P pursuant to proposed Rule 802(d) per year, and that this estimate represents the aggregate burden for all non-resident SB SEFs per year.

**The total annual reporting burden for one SB SEF to comply with the requirements of proposed Rule 802(d) would be \$900 per year.**

The Commission preliminarily estimates that the total annual cost for all SB SEFs to

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<sup>69</sup> \$523,000 = \$500,000 for outside accounting services for auditing SB SEF's financial statements + \$23,000 in outside software and other cost for formatting financial statement submission in XBRL format.

<sup>70</sup> \$10,478,900 = (20 (number of SB SEF respondents) x \$523,000 (total initial cost to comply with Form SB SEF except for Exhibit P)) + (20 (number of SB SEF respondents controlled by other persons) x \$900 (total initial cost to comply with Exhibit P)) + (1 (number of non-resident SB SEF respondents) x \$900 (total initial cost to comply with Exhibit P)).

<sup>71</sup> \$1,800 = 2 (number of SB SEFs controlled by other persons required to file an amended Exhibit P pursuant to proposed Rule 802(c) per year) x \$900 (total annual cost burden to file an amended Exhibit P).



comply with the registration requirements under Regulation SB SEF would be \$2,700, and the total one-time cost for all SB SEFs would be \$10,478,900.

#### B. Rule-writing Requirements for SB SEFs

The Commission preliminary estimates that SB SEFs would not incur monetary costs in complying with the rule-writing requirements under Regulation SB SEFs. The hourly burdens associated with the rule-writing requirements are discussed above in Section 12.B.

#### C. Reporting Requirements for SB SEFs

Proposed Rule 814: Proposed Rule 814(b)(3) would require a SB SEF to have the capacity to carry out such international information-sharing agreements as the Commission may require. The Commission believes that these agreements initially would be created or reviewed internally, but would also be reviewed by outside counsel. The Commission estimates that the SB SEF's outside counsel would require 10 hours to review these documents for a cost of \$4,000 per respondent, and a total cost of \$80,000 for all respondents.<sup>72</sup>

**The Commission therefore estimates that the total annual reporting burden for SB SEFs to comply with the requirements above in proposed Rule 814(b)(3) would be \$80,000 for SB SEF respondents.**

Proposed Rule 822: Proposed Rule 822(a)(2) would require a SB SEF to submit to the Commission an annual objective review of the capability of SB SEF systems that support or are integrally related to the performance of the SB SEF's activities. The Commission estimates that the annual cost to hire an objective, external firm to review internal audits to be approximately \$90,000 per respondent for a total annual cost of \$1,800,000 for all respondents.<sup>73</sup>

**The Commission estimates that the annual reporting burden imposed by the requirements in proposed Rule 822(a)(2) would be \$1,800,000 for all SB SEFs.**

The Commission, therefore, preliminarily estimates that the total annual reporting cost for all SB SEFs would be \$1,880,000.<sup>74</sup>

#### D. Recordkeeping Required Under Regulation SB SEF

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<sup>72</sup> \$80,000 = \$4,000 (estimated external dollar cost per respondent to comply with proposed Rule 814(b)(3)) x 20 (number of SB SEF respondents).

<sup>73</sup> \$1,800,000 = \$90,000 (annual external dollar cost per respondent to comply with proposed Rule 822(a)(2)) x 20 (number of SB SEF respondents).

<sup>74</sup> \$1,880,000 = \$80,000 (annual cost burden to comply with proposed Rule 814(b)(3)) + \$1,800,000 (annual cost burden to comply with proposed Rule 822(a)(2)).

The Commission also preliminarily estimates that a SB SEF could incur a one-time burden to set up or modify an existing recordkeeping system to comply with the proposed Rule 818. The Commission estimates that setting up or modifying a recordkeeping system would create \$1,800 in information technology costs per respondent to purchase recordkeeping software, for a total initial burden of \$36,000.<sup>75</sup>

**The Commission estimates that the total one-time recordkeeping burden to comply with proposed Rule 818 is \$36,000 (\$12,000 amortized over 3 years).**

The Commission also preliminarily estimates that ECPs that would be SB SEF participants could incur a one-time burden to set up or modify an existing recordkeeping system to comply with the proposed Rule 813(c)(1). The Commission estimates that setting up or modifying a recordkeeping system would create an initial burden of \$1,800 in information technology costs per ECP to purchase recordkeeping software, for a total initial burden of \$378,000 for all ECPs combined.<sup>76</sup>

**The Commission estimates that the total one-time recordkeeping burden for the ECPs respondents combined to comply with proposed Rule 813(c)(1) is \$378,000 (\$126,000 amortized over 3 years).**

E. Timely Publication of Trading Information Requirement for SB SEFs

The Commission preliminary estimates that SB SEFs would not incur monetary costs in complying with the publication of trading information requirements under Regulation SB SEFs. The hourly burdens associated with the publication of trading information requirements are discussed above in Section 12.E.

F. Rule Filing and Product Filing Processes for SB SEFs

The Commission preliminary estimates that SB SEFs would not incur monetary costs in complying with the rule-filing and product-filing requirements under Regulation SB SEFs. The hourly burdens associated with the rule-filing and product-filing requirements are discussed above in Section 12.F.

G. Requirements Relating to the SB SEF's CCO

The SB SEF's CCO would have several initial and annual recordkeeping burdens under proposed Rule 823(b)(6) and (7) and also under proposed Rule 823(c) through (e).

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<sup>75</sup> \$36,000 = \$1,800 (estimated cost to purchase recordkeeping software) x 20 (number of SB SEF respondents).

<sup>76</sup> \$378,000 = \$1,800 (estimated cost to purchase recordkeeping software) x 210 (estimated number of ECP SB SEFs that could seek to purchase recordkeeping software to comply with proposed Rule 813(c)(1)).

Due to the novel nature of the CCO requirements in the SB SEF industry and the new requirements under the Dodd-Frank Act, the Commission estimates that an initial one-time burden of \$40,000 in outside legal costs<sup>77</sup> would be incurred per SB SEF to comply with Rule 823(b)(6) and (7), for a total outside cost burden for all SB SEFs of \$800,000.<sup>78</sup>

**The Commission estimates that the total one-time recordkeeping burden for all SB SEFs combined to comply with proposed Rule 823(b)(6) and (7) would be \$800,000 (\$266,667 amortized over 3 years).**

A CCO would be required under proposed Rule 823(e)(1) and (2) and Exhibits F and H to proposed Form SB SEF to submit an annual financial report that would need to satisfy a number of requirements. The Commission preliminarily estimates that the reports relating to the SB SEF would require, on average, \$500,000 for independent public accounting services per respondent. The Commission also estimates that the submission of these reports in XBRL-compatible format would add an additional cost of \$23,000 in outside software costs per respondent per year. Thus, for purposes of complying with the financial statement requirements under proposed Rule 823(e)(1) and (2) and Exhibits F and H to proposed Form SB SEF, the Commission estimates a total annual burden of \$10,460,000 for respondents.<sup>79</sup>

**The Commission estimates that the total annual recordkeeping burden for all SB SEFs combined to comply with proposed Rule 823(e)(1) and (2) would be \$10,460,000.**

As a result, the Commission estimates that the total burdens for compliance with proposed Rule 823 would be: (i) initially, for the creation of the policies and procedures required in proposed Rule 823(b)(6) and (7), \$40,000, per respondent, and \$800,000, for all respondents; and (ii) on an annual basis, for the annual compliance report and financial reports required under proposed Rule 823(c) through (e), \$523,000, per respondent, and \$10,460,000,<sup>80</sup> for all respondents.

The Commission, therefore, preliminarily estimates that the total annual cost burden for

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<sup>77</sup> \$40,000 = \$400 (estimated hourly cost for outside counsel) x 50 hours (estimated amount of external legal work require per policy and procedure requirement) x 2 (number of policy and procedure requirements).

<sup>78</sup> \$800,000 = \$40,000 (initial burden per respondent) x 20 (number of SB SEF respondents).

<sup>79</sup> \$10,460,000 = 20 (number of SB SEF respondents) x \$523,000 (\$500,000 for outside accounting services for auditing SB SEF's financial statements + \$23,000 in outside software and other cost for formatting financial statement submission in XBRL format).

<sup>80</sup> \$10,460,000 = 20 (number of SB SEF respondents) x \$523,000 (\$500,000 for outside accounting services for auditing SB SEF's financial statements + \$23,000 in outside software and other cost for formatting financial statement submission in XBRL format).

all SB SEFs to comply with the CCO requirements in proposed Rule 823 would be \$10,460,000 and the total one-time cost burden would be \$800,000 (\$266,667 amortized over 3 years).

#### H. Surveillance Systems Requirements for SB SEFs

As discussed above, proposed Rule 813(b) requires SB SEFs to have the capacity and resources to electronically monitor trading in SB swaps on its market by establishing an automated surveillance system, including through real-time monitoring of trading and use of automated alerts, to, among other things, detect and deter fraudulent or manipulative acts or practices, detect and deter market distortions or disruptions of trading, conduct real-time monitoring of trading to provide for comprehensive and accurate trade reconstruction, and collect and assess data to allow SB SEFs to respond to market abuses and disruptions.

The Commission believes that a one-time capital expenditure of \$1,500,000 in information technology costs would be necessary to establish such a system. The Commission therefore estimates a total start-up cost of \$30,000,000 in information technology costs.<sup>81</sup>

**The Commission estimates that the total one-time recordkeeping burden for SB SEFs to comply with proposed Rule 813(b) would be \$30,000,000 (\$10,000,000 amortized over 3 years).**

The Commission further estimates that to maintain these systems, a SB SEF would have an ongoing information technology cost of and \$500,000 per respondent, for a total ongoing annual burden of \$10,000,000<sup>82</sup>

**The Commission estimates that the total annual recordkeeping burden for SB SEFs to comply with proposed Rule 813(b) would be \$10,000,000.**

#### I. Access by Non-Registered Eligible Contract Participants

The Commission preliminary estimates that SB SEFs would not incur monetary costs in complying with Rule 809(d). The hourly burdens associated with Rule 809(d) are discussed above in Section 12.I.

#### J. Composite Indicative Quote and Executable Bids and Offers

The Commission preliminary estimates that SB SEFs would not incur monetary costs in complying with the requirements to create and disseminate composite indicative quote and to display executable bids and offers. The hourly burdens associated with these requirements are

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<sup>81</sup> \$30,000,000 = \$1,500,000 (initial cost burden per respondent) x 20 (number of SB SEF respondents).

<sup>82</sup> \$10,000,000 = \$500,000 (annual cost burden per respondent) x 20 (number of SB SEF respondents).

discussed above in Section 12.J.

**14. Estimate of Cost to the Federal Government**

Not applicable.

**15. Explanation of Changes in Burden**

Not applicable. Regulation SB SEF is a proposed new rule.

**16. Information Collection Planned for Statistical Purposes**

Not applicable.

**17. Approval to not Display Expiration Date**

We request authorization to omit the expiration date on the electronic version of this form for design and IT project scheduling reasons. The OMB control number will be displayed.

**18. Exceptions to Certification Statement**

Not applicable.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not involve statistical methods.