

**SUPPORTING STATEMENT FOR NEW AND
REVISED INFORMATION COLLECTIONS**

**Reporting, Recordkeeping, and Daily Trading Records Requirements
For Swap Dealers and Major Swap Participants**

OMB CONTROL NUMBER 3038-0087¹

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 731 of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act, Pub L. No. 111-203, 124 Stat. 1376 (2010)) amended the Commodity Exchange Act (CEA) to add section 4s(f) and 4s(g) which establish certain reporting, recordkeeping, and daily trading records requirements for swap dealers and major swap participants. Specifically, section 4s(f) authorizes the Commission to promulgate books and records and reporting requirements for swap dealers and major swap participants and expressly obligates swap dealers and major swap participants to maintain records of all activities related to their swaps businesses and to make reports regarding their transactions, positions and financial condition, as required by such regulations. Section 4s(g) requires swap dealers and major swap participants to maintain daily trading records of their swaps that contain any information prescribed by Commission regulations; all related records (including records of related cash and

¹ The new information collection requirements discussed in this Supporting Statement were proposed in the notice of proposed rulemaking (NPRM) entitled “Reporting and Recordkeeping and Daily Trading Records Requirements for Swap Dealers and Major Swap Participants” that was published in the *Federal Register* on December 9, 2010 (Recordkeeping NPRM). See 75 FR 76666. They are included within the final regulations to be published in the *Federal Register* under the title “Swap Dealer and Major Swap Participant Recordkeeping and Reporting, Duties, and Conflicts of Interest Policies and Procedures; Futures Commission Merchant and Introducing Broker Conflicts of Interest Policies and Procedures; Swap Dealer, Major Swap Participant, and Futures Commission Merchant Chief Compliance Officer.” This set of final regulations combines the obligations proposed in five separate NPRMs. See 75 FR 70152 (Nov. 17, 2010) (Implementation of Conflicts of Interest Policies and Procedures by Futures Commission Merchants and Introducing Brokers); 75 FR 70881 (Nov. 19, 2010) (Designation of a Chief Compliance Officer; Required Compliance Policies; and Annual Report of a Futures Commission Merchant, Swap Dealer or Major Swap Participant); 75 FR 71391 (Nov. 23, 2010) (Implementation of Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants); 75 FR 71397 (Nov. 23, 2010) (Regulations Establishing the Duties of Swap Dealers and Major Swap Participants); and the Recordkeeping NPRM. The information collection requirements of each of the five NPRMs were addressed in separate Supporting Statements that have been assigned distinct control numbers by the Office of Management and Budget (OMB). See “Conflicts of Interest Policies and Procedures by Futures Commission Merchants and Introducing Brokers,” OMB control number 3038-0078; “Annual Report of the Chief Compliance Officer of Registrants,” OMB control number 3038-0080; “Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants,” OMB control number 3038-0079; “Regulations Establishing and Governing the Duties of Swap Dealers and Major Swap Participants,” OMB control number 3038-0084; and “Reporting, Recordkeeping, and Daily Trading Records Requirements for Swap Dealers and Major Swap Participants,” OMB control number 3038-0087. The information collection burdens contained in different portions of the final set of regulations will be addressed in separate final Supporting Statements labeled with the OMB number assigned to them at the proposal stage.

forward transactions); all recorded communications (including electronic mail, instant messages, and recordings of telephone calls); and a complete audit trail for conducting comprehensive and accurate trade reconstruction. Section 4s(g) also requires that the daily trading records for each swap transaction be identifiable by transaction and by counterparty.

Accordingly, the Commission has adopted regulations 23.201-23.205, that impose certain recordkeeping and reporting obligations upon swaps dealers and major swap participants. The regulations generally require swap dealers and major swap participants to maintain transaction and position records of their swaps (including daily trading records) and to maintain specified business records (including records related to the governance and financial status of the swap dealer or major swap participant, complaints received by such registrants and such registrant's marketing and sales materials). It also requires swap dealers and major swap participants to report certain swap transaction data to swap data repositories, to satisfy certain real time public reporting requirements, and to maintain records of information reported to swap data depositories and for real time reporting purposes.

As discussed further below, the additional information collection burden arising from the regulations primarily is restricted to the costs associated with the affected registrants' obligation to maintain records related to their transactions, positions, complaints, and marketing communications. The Commission does not anticipate that the reporting obligations set forth in the rules would result in any extra cost to swap dealers and major swap participants beyond the expenditures already accounted for in the final regulations for swap data recordkeeping and reporting and for real-time public reporting of swap transaction data.

The information collection obligations imposed by the regulations are necessary to implement the above-referenced provisions of the CEA, including ensuring that each swap dealer and major swap participant maintains the required records of their business activities and an audit trail sufficient to conduct comprehensive and accurate trade reconstruction.

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.

Commission staff will use the information required to be preserved or reported when conducting the Commission's examination and oversight program with respect to the affected registrants.

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 regulations require that recordkeeping generally be performed in accordance with Commission regulation 1.31, which permits the use of electronic storage media.

The regulations also require that swap dealers and major swap participants have the systems and procedures necessary to transmit electronically all information and data required by Commission

regulations to be reported to a swap data repository and to report electronically all information and swap transaction and pricing data required to be reported in accordance with the real-time public recording obligations set forth in Commission regulations.

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.

Swap dealers and major swap participants are new categories of registrants under the Dodd-Frank Act. Accordingly, the required information is not already collected by the Commission for any other purpose. It also is not 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 collection of the required information does not involve any small businesses or 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.

Failure to maintain the records required by the regulations would adversely affect the Commission's ability to ensure the affected registrants' compliance with their obligations under the CEA and Commission regulations to maintain daily trading records; to maintain an audit trail that is complete and permits accurate trade reconstruction; to maintain other records of activities related to their swaps businesses and communications; and to make certain reports regarding their transactions, positions, and financial condition.

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;**

This question does not apply to this Supporting Statement. The reporting obligations contained in the regulations (the requirements to report swap transactions to swap data repositories in accordance with regulation 23.204 and to engage in real time public reporting of swap transaction and pricing data in accordance with regulation 23.205) would not result in any additional cost to swap dealers and major swap participants beyond any costs already described and accounted for in the final part 45 regulations for swap data recordkeeping and reporting and in the final part 43 regulations governing real-time public reporting of swap transaction data.

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

This question does not apply.

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

This question does not apply. The regulations do not impose a reporting requirement that would obligate a respondent to submit more than an original and two copies of any document.

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

Commission regulation 1.31 expressly requires that:

All books and records required to be kept by the [CEA] or by [Commission] 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 five-year period. All such books and records shall be open to inspection by any representative of the commission or the United States Department of Justice.

- **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;**

This question does not apply. The regulations do not require nor involve any statistical surveys.

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

This question does not apply. The regulations do not require nor involve the 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**

This question does not apply. The regulations do not require a pledge of confidentiality.

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

This question does not apply. In any event, the Commission has promulgated regulations to protect the confidentiality of any information collected from respondents. Such regulations are set forth in 17 CFR Part 145.

- 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 CFR 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 affirmatively sought comment from the public and from other federal agencies on the information collection requirements of these regulations. *See* 75 FR 76666, 76672 (Dec. 9, 2010) (Reporting and Recordkeeping and Daily Trading Records Requirements for Swap Dealers and Major Swap Participants). A copy of the proposed regulation as it appeared in the *Federal Register* is attached hereto.

In the Recordkeeping NPRM, the Commission took a conservative approach to calculating the burden hours of the information collection by estimating that as many as 300 persons would come within the swap dealer or major swap participant definition and thus, would be subject to the recordkeeping requirements contained therein. Since the publication of the Recordkeeping NPRM in December 2010, the Commission has met with industry participants and trade groups, discussed extensively the universe of potential swap dealers and major swap participants with National Futures Association (NFA), and reviewed public information about potential swap dealers active in the market and in certain trade groups. Over time, and as the Commission has gathered more information on the swap market and its participants, the estimate of the number of swap dealers and major swap participants has decreased. After recently receiving additional specific information from NFA on the regulatory program it is developing for swap dealer and major swap participants, the Commission now believes that approximately 125 persons will come within the swap dealer or major swap participant definition and, thus, will be subject to requirements of these regulations. It has adjusted its information collection burden calculations accordingly.

In the Recordkeeping NPRM (and the other NPRMs captured in the combined final regulations of which the recordkeeping regulations are a part), the Commission estimated the cost burden of the regulations based upon an average salary of \$100 per hour. In response to this estimate, the Working Group of Commercial Energy Firms (Working Group) commented that, inclusive of benefit costs and allocated overhead, the per hour average salary estimate for compliance and risk management personnel should be significantly higher than \$120. Having considered the comments received and having reviewed the available data, the Commission has determined in the final regulations that \$100 per hour remains a reasonable salary estimate for purposes of these regulations. In support of this determination, the Commission notes that the salary estimate of \$100 per hour used in the Recordkeeping NPRM was based upon recent Bureau of Labor Statistics findings, including the mean hourly wage of an employee under occupation code 23-1011, “Lawyers,” that is employed by the “Securities and Commodity Contracts Intermediation and Brokerage Industry,” which is \$82.22. The mean hourly wage of an employee under occupation code 11-3031, “Financial Managers,” (which includes operations managers) in the same industry is \$74.41.² The Commission also notes that, in its proposal, the Commission took the foregoing data and then increased its hourly wage estimate in recognition of the fact that some registrants may be large financial institutions whose employees’ salaries may exceed the mean wage. The Commission also observes that the Securities Industry and Financial Markets Association’s (SIFMA’s) “Report on Management & Professional Earnings in the Securities Industry – 2010” estimates the average wage of a compliance attorney and a compliance staffer

² *See* <http://www.bls.gov/oes/2099/mayowe23.1011.htm> and <http://www.bls.gov/oes/current/oes113031.htm>.

in the U.S. at only \$46.31 per hour.³ Finally, the Commission notes that its determination is consistent with the Commission's estimate for the hourly wage for chief compliance officers under the recently adopted final rules for derivatives clearing organizations.⁴

With respect to the obligations specific to the Recordkeeping NPRM, the Air Transport Association of America, Inc. commented that telephone recording systems that are compliant with all of the requirements would impose a significant additional cost to dealers. The Working Group commented that the long-term electronic storage of significant amounts of pre-execution communications would prove costly over the proposed five-year period. The Working Group also commented that requiring records of physical positions linked with related swap transactions would impose very expensive and burdensome requirements on millions of physical transactions that are undertaken by commercial energy firms that are also parties to swap transactions.

With respect to the record retention requirements contained in the Recordkeeping NPRM, the Managed Funds Association commented that maintaining records of transactions for five years following the termination, expiration, or maturity of the transactions would constitute an additional administrative burden and entail substantial additional cost. The International Swaps and Derivatives Organization, Inc. & SIFMA also believe that recordkeeping of all oral and written communications that may lead to the execution of a swap for the life of a swap plus five years could impose a heavy cost burden to implement and maintain, for only a small incremental benefit and would be more supportive of a voice recording obligation to retain recordings for a minimum period of six months.

Notably, none of the commenters referenced above suggested specific revised calculations with regard to the Commission's burden estimate with respect to these regulations. Although the Commission modified the retention period for voice recordings to one year in response to the comments received, it does not anticipate that such an alternation would have a significant impact upon its original calculations. Accordingly, the only changes that the Commission has made to its estimates of the burdens associated with the recordkeeping regulations are those modifications necessary to reflect the new estimate of the number of swap dealers and major swap participants. The Commission estimates the per registrant burden to be 2,096 hours, at an annual cost of \$209,600 [$2,096 \times \100 per hour] for each swap dealer and major swap participant and the aggregate hour burden cost for all registrants is 262,000 burden hours and \$26,200,000 [$262,000 \times \100 per hour].

³ In the final regulations, the Commission notes that the Futures Industry Association (FIA) and SIFMA stated that some of the compliance policies required by the proposed regulations would be drafted by both in-house lawyers and outside counsel, so the blended hourly rate should be roughly \$400. The information collection burdens addressed in this particular Supporting Statement do not include the burdens associated with drafting such policies and procedures and accordingly, such comments are inapplicable. In responding to these comments, the Commission noted that some registrants may hire outside counsel with expertise in the various regulatory areas covered by the combined final regulations and outside counsel may be able to leverage its expertise to substantially reduce the number of hours needed to fulfill a requested assignment. While the Commission is uncertain about the billing rates that registrants may pay for outside counsel, the Commission believes that such counsel may bill at a rate of several hundred dollars per hour. Any determination to use outside counsel, however, is at the discretion of the registrant.

⁴ See 76 FR 69334, 69428 (Nov. 8, 2011) (Derivatives Clearing Organization General Provisions and Core Principles).

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).

As set forth above, the Commission affirmatively sought comment from the public and from other federal agencies on the information collection requirements of the regulations in the Recordkeeping NPRM and the Commission considered each of the comments received in formulating the final regulations. In addition, the Chairman and the Commissioners, as well as Commission staff, participated in numerous meetings with representatives of potential swap dealers and major swap participants, trade associations, public interest groups, traders, and other interested parties. The Commission also consulted with other U.S. financial regulators including: (1) the Securities and Exchange Commission (SEC); (2) the Board of Governors of the Federal Reserve System; (3) the Office of the Comptroller of the Currency; and (4) the Federal Deposit Insurance Corporation. Staff from each of these agencies had the opportunity to provide oral and/or written comments to the adopting release describing the combined final regulations, and the final regulations incorporate elements of the comments provided. The Commission also reviewed the SEC's proposed rule concerning business conduct standards for security-based swap dealers and major swap participants.⁵ The Commission is mindful of the benefits of harmonizing its regulatory framework with that of its counterparts in foreign countries. The Commission, therefore, monitored global advisory, legislative, and regulatory proposals, and consulted with foreign regulators in developing the final regulations.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 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. No decision to provide any payment or gift to respondents has been made.

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

The Commission will protect proprietary information according to the Freedom of Information Act and the regulations that the Commission has promulgated to protect the confidentiality of collected information contained in 17 CFR 145, "Commission Records and Information." In addition, section 8(a) of the CEA provides for the confidentiality of data and information, except

⁵ See 76 FR 42396 (July 18, 2011) (Business Conduct Standards for Security Based Swap Dealers and Major Security Based Swap Participants).

under the limited circumstances delineated therein. The Commission also is required to protect certain information pursuant to the Privacy Act of 1974.

- 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. The regulations do not request or require the provision of sensitive information, as that term is used in question 11.

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

- Indicate the number of respondents, frequency of response, annual hour burden and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than ten) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- If the request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- Provide estimates of annualized cost to respondents for the hours burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

See Attachment A and the response to question 8. As delineated below, the hourly burden associated with the regulations is estimated to be 2,096 hours per swap dealer or major swap participant, at an annual cost of \$209,600 per registrant. This hourly burden is not expected to vary widely among registrants.

Specifically, the Commission anticipates that swap dealers and major swap participants will spend approximately eight hours per trading day (2,016 hours per year) compiling and maintaining transaction records pursuant to regulation 23.201, including the daily trading records required by regulation 23.202. The Commission believes that swap dealers and major swap participants already maintain the vast majority of the required transaction records (particularly execution and post-execution records) as part of their customary and usual business practices and

that any additional expenditure generally would be limited to the costs associated with developing and preserving certain pre-execution data and communications, which currently may not be kept by affected registrants (for example, records of oral and written communications and records related to quotes, bids, and offers) as well as the time required to input any unique transaction terms into electronic recordkeeping systems. The Commission believes that registrants will expend an additional 63 hours per year compiling daily records of their positions, identified by product and counterparty, as required by regulation 23.201.

The Commission estimates that each swap dealer and major swap participant will spend 5 hours per year compiling the complaint records required by regulation 23.201. This approximation is based on the belief that the affected registrants primarily engage in principal to principal transactions, which are less likely to generate complaints than transactions conducted on an agency basis. It also assumes that most registrants possess pre-existing complaint recordkeeping systems and thus, any hourly burden imposed would be limited to the time required to document and retain the specific complaint information mandated by the rule that is not already kept. Finally, the Commission estimates the hourly burden associated with compliance with the marketing communication recordkeeping requirement set forth in regulation 23.201 to be approximately 12 hours per year. The Commission expects that swap dealers and market participants presently maintain records of most of their marketing presentations, advertisements, sales literature, and marketing communications as part of their customary business practices and, thus, any new hourly burden is limited to the requirement to maintain a record of compliance with relevant marketing regulations.

The Commission believes that several aspects of the regulations would not result in any additional hourly burdens upon affected registrants. For example, the required records of transactions executed on a swap execution facility or designated contract market or transactions cleared by a designated clearing organization would be the same transaction and daily trading records accounted for previously and, therefore, have not been assigned an extra hourly burden.

The Commission also expects that swap dealers and major swap participants currently make and/or maintain their meeting minutes; organizational charts; the resumes of relevant managers; records of their assets, liabilities, income, and expenses; and other governance or financial records in the ordinary course of their businesses.

Finally, the Commission does not anticipate that the requirements to report swap transactions to swap data repositories in accordance with regulation 23.204, to engage in real time public reporting of swap transaction and pricing data in accordance with regulation 23.205, and to maintain the electronic systems and procedures necessary to report transactions and data in the manner required by the regulations would result in any additional hourly burdens or costs to swap dealers and major swap participants other than those previously set forth and accounted for in the recently adopted part 45 regulations for swap data recordkeeping and reporting and in the recently adopted part 43 regulations governing real-time public reporting of swap transaction data.

In its proposal the Commission anticipated that approximately 250 swap dealers and 50 major swap participants would be registered with the Commission. As explained in greater detail

above, the Commission now believes that approximately 125 persons will come within the swap dealer or major swap participant definition and, thus will be subject to the requirements of these regulations. The Commission has adjusted its information collection burdens accordingly. According to recent Bureau of Labor Statistics, the mean hourly wage of an employee under occupation code 11-3031, “Financial Managers,” (which includes operations managers) that is employed by the “Securities and Commodity Contracts Intermediation and Brokerage” industry is \$74.41.⁶ Because swap dealers and major swap participants include large financial institutions whose operations management employees’ salaries may exceed the mean wage, the Commission estimated the cost burden of these proposed regulations based upon an average salary of \$100 per hour in its proposal. As set forth above, the Commission continues to believe that this is an appropriate salary estimate for purposes of these regulations.

Recordkeeping: Transaction Records (including Daily Trading Records).

Number of registrants: 125

Frequency of collection: daily

Estimated number of responses per registrant: 252 [252 trading days]

Estimated aggregate number of responses: 31,500 [125 registrants x 252 trading days]

Estimated annual burden per registrant: 2,016 hours [252 trading days x 8 hours per trading day]

Estimated aggregate annual hour burden: 252,000 hours [125 registrants x 252 trading days x 8 hours per trading day]

Recordkeeping: Position Records.

Number of registrants: 125

Frequency of collection: daily

Estimated number of responses per registrant: 252 [252 trading days]

Estimated aggregate number of responses: 31,500 [125 registrants x 252 trading days]

Estimated annual burden per registrant: 63 hours [252 trading days x .25 hours per record]

Estimated aggregate annual hour burden: 7,875 hours [125 registrants x 252 trading days x .25 hours per record]

Recordkeeping: Complaints.

Number of registrants: 12

Frequency of collection: as needed

Estimated number of responses per registrant: 5

Estimated aggregate number of responses: 625 [125 registrants x 5 complaints per registrant]

Estimated annual burden per registrant: 5

Estimated aggregate annual hour burden: 625 [125 registrants x 5 complaints per registrant]

Recordkeeping: Marketing Communications.

Number of registrants: 125

Frequency of collection: as needed

Estimated number of responses per registrant: 12 (monthly compilation of records)

Estimated aggregate number of responses: 1,500 [125 registrants x 12 monthly compilations]

Estimated annual burden per registrant: 12 hours [1 hour x 12 months]

Estimated aggregated annual hour burden: 1,500 [125 registrants x 12 monthly compilations]

⁶ <http://www.bls.gov/oes/current/oes113031.htm>.

Based upon the above, the aggregate cost for all registrants is 262,000 burden hours and \$26,200,000 [262,000 burden hours x \$100 per hour].

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

- **The cost estimate should be split into two components; (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major costs factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software, monitoring, sampling, drilling and testing equipment, and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate, agencies may consult with a sample of respondents (fewer than ten), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

In the Recordkeeping NPRM, the Commission anticipated that swap dealers and major swap participants may incur certain one-time, start-up costs in connection with the proposed recordkeeping obligations. Such costs would include expenditures related to developing and installing new technology or re-programming or updating existing recordkeeping technology and systems to enable swap dealers and major swap participants to collect, capture, process, maintain, and re-produce any newly required records. The Commission originally estimated the programming burden hours associated with technology improvements to be 160 hours. Based upon the comments received regarding system installation or upgrades that may be needed to meet the requirements of the rules, the Commission has doubled its estimate of programming burden hours associated with technology improvements to 320 hours. The Commission continues to expect, however, that the burden hours would not vary widely among registrants.

In its proposal, the Commission used a mean hourly programming wage of \$60 to calculate the start-up burden associated with the required technological improvements. The \$60 amount was gleaned from recent Bureau of Labor Statistics that state that the mean hourly wages of computer programmers under occupation code 15-1021 and computer software engineers under program codes 15-1031 and 1032 are between \$34.10 and \$44.94. Because swap dealers and major swap participants typically will be large entities that may engage employees with wages above the mean, the Commission, in its proposal, conservatively chose to use a mean hourly programming wage of \$60 per hour. The Commission received no comments with respect to its programming wage estimate of \$60 per hour. Accordingly, the Commission revised the estimate of the start-up burden associated with the required technological improvements only to reflect the increased estimate of programming burden hours and to reflect the reduced number of swap dealers and major swap participants. The Commission now estimates that the start-up burden would be \$19,200 [$\60×320 hours] per affected registrant or \$2,400,000 [$\$19,200 \times 125$ swap dealers/major swap participants] in the aggregate for all registrants.

- 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.**

It is not anticipated that the regulations would impose any additional costs to the Federal Government.

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

The program changes or adjustments are required by the Dodd-Frank Act, which established a new regulatory scheme.

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

This question does not apply.

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

This question does not apply.

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

This question does not apply.

Attachment A

Part 23 – Reporting, Recordkeeping and Daily Trading Records Requirements for Swap Dealers and Major Swap Participants

OMB Collection File 3038-0087

Number of Registrants: 125

Frequency of Recordkeeping: Daily or as needed (see chart below)

Start-up Cost Per Registrant: \$19,200

Aggregate Start-Up Cost: \$2,400,000

Estimated Average Burden Hours Per Registrant: 2,096

Estimated Aggregate Burden Hours: 262,000

Estimated Annual Cost Per Registrant: \$209,600

Estimated Aggregate Annual Cost: \$26,200,000

% of Responses Collected Electronically

See methods of calculation listed in response to question 12 of this Supporting Statement

Requirement	Estimated Number of Registrants Per Year	Frequency of Response	Number of Responses Per Registrant Annually	Aggregate Number of Responses Annually	Estimated Average Number of Hours Per Response	Estimated Annual Hour Burden Per Registrant	Estimated Aggregate Hour Burden	Estimated Annual Cost Per Registrant	Estimated Aggregate Annual Cost
Recordkeeping: Transaction Records (including Daily Trading Records)	125	Daily	252	31,500	8	2,016 hours	252,000 hours	201,600	25,200,000
Recordkeeping: Position Records	125	Daily	252	31,500	.25	63 hours	7,875 hours	6,300	787,500
Recordkeeping: Complaints	125	As needed	5	625	1	5 hours	625 hours	500	62,500
Recordkeeping: Marketing Communications	125	As needed	12	625	1	12 hours	1,500 hours	1,200	150,000
Total						2,096	262,000	209,600	26,200,000