SUPPORTING STATEMENT FOR NEW AND REVISED INFORMATION COLLECTIONS

OMB CONTROL NUMBER 3038-0089

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 723 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 Section 2 of the Commodity Exchange Act ("CEA" or "Act") by adding new Section 2(h)(5), which directs that rules adopted by the Commission pursuant to this section shall provide for the reporting of data relating to swaps entered into before the date of enactment of the Dodd-Frank Act, the terms of which have not expired as of the date of enactment of that Act ("pre-enactment swaps") and data relating to swaps entered into on or after the date of enactment of the Dodd-Frank Act and prior to the compliance date specified in swap data reporting rules implementing Section 2(h)(5)(B) ("transition swaps").

Section 729 provides for reporting to the Commission uncleared swaps that are not accepted by any swap data repository ("SDR"). Under this provision, counterparties to such swaps must maintain books and records pertaining to their swaps in the manner and for the time required by the Commission, and must make these books and records available for inspection by the Commission or other specified regulators if requested to do so. It also requires counterparties to such swaps to provide reports concerning such swaps to the Commission upon its request, in the form and manner specified by the Commission. Such reports must be as comprehensive as the data required to be collected by SDRs.

Section 729 establishes in new CEA Section 4r(a)(2)(A) a transitional rule applicable to pre-enactment swaps. Section 4r(a)(2)(A) provides for the reporting of pre-enactment swaps the terms of which have not expired as of the enactment of the Dodd-Frank Act to an SDR or the Commission, by a date that the Commission determines to be appropriate. Section 4r(a)(2)(B) directed the Commission to promulgate an interim final rule within 90 days of the date of enactment of the Dodd-Frank Act providing for the reporting of such pre-enactment swaps.

This rule refers to the two types of swaps addressed in CEA Section 2(h)(5) as follows. "Pre-enactment swap" means a swap executed before date of enactment of the Dodd-Frank Act (i.e., before July 21, 2010) the terms of which have not expired as of the date of enactment of that Act. "Transition swap" means a swap executed on or after the date of enactment of the Dodd-Frank Act (i.e., July 21, 2010) and before the compliance date specified in the final swap data reporting and recordkeeping requirements regulations in part 45 of this chapter. Collectively, the rule refers to pre-enactment swaps and transition swaps as "historical swaps."

This supporting statement concerns new collections of information found in these final regulations that relate to the recordkeeping and reporting Dodd-Frank Act requirements for historical swaps. The regulations found in 17 CFR Part 46 impose recordkeeping and reporting requirements, relating to historical swaps, on the following entities: swap dealers ("SDs"), major swap participants ("MSPs"), and non-SD/MSP counterparties. Under section 46.2, affected entities are required to keep certain records relating to historical swaps; under section 46.3, affected entities are required to make an initial data report regarding historical swaps. The collections of information are described more fully in response to Question 12.

The information collection obligations imposed by the regulations are necessary to ensure that complete data concerning swaps is available to the Commission and other regulators, as required by the CEA as amended by the Dodd-Frank Act. The data would be reported to and maintained in swap data repositories, where it would not be disclosed publicly, but would be available to the Commission and other financial regulators for fulfillment of various regulatory mandates.

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

The data on historical swaps required to be collected by the regulations will be used to fulfill the fundamental systemic risk mitigation, transparency, and market supervision purposes for which the Dodd-Frank Act was enacted. The data would be used to provide regulators with information regarding the entire swap market. More specifically, it would provide the Commission and other financial regulators with necessary insight concerning the number of transactions and the number and type of participants involved in the swap market, as well as its outstanding notional size. Such information provides both a baseline against which to assess the development of the swap market over time and a first step toward a transparent and well-regulated market for swaps. The data required to be collected would also allow the Commission to prepare the semi-annual reports it is required to provide to Congress.

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.

For historical swaps in existence on or after April 25, 2011 (the date of publication of the proposed rule), the final rule requires swap dealers and major swap participants to keep records in electronic form, with the exception that records originally created and exclusively maintained in paper form may be kept in paper form. The final rule permits non-SD/MSP counterparties to keep records in either electronic or paper form, so long as they are retrievable, and information in them is reportable, as required by the final rule. This will ease recordkeeping burdens for less technologically resourced counterparties. For historical swaps expired or terminated prior to April 25, 2011, records may be kept in any format chosen by the counterparty.

For historical swaps in existence on or after April 25, 2011, data reports made by the reporting counterparty (chosen as set forth in the final rule) must be made electronically. In order to reduce the reporting burden, the regulations state that for historical swaps no longer in existence as of April 25, 2011, the required data report may be made via any method selected by the reporting counterparty.

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

The required information for historical swaps is not already collected by the Commission for any other purpose, collected by any other agency, or available for public disclosure through any other source. Prior to enactment of the Dodd-Frank Act, the Commission did not have authority to require swap data recordkeeping and reporting for historical swaps. There are no existing regulations that could be modified to serve a similar purpose.

Even though the required information is not already required to be collected by any other agency or regulation, in some instances, affected entities may have voluntarily reported the required information to a trade repository, prior to the time when reports are required under the final regulations. The rule provides that if such a repository registers with the Commission as an SDR, the affected entities need not provide duplicative information to the SDR, but would have to report only required information that had not already been reported.

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 rule sets forth recordkeeping and reporting requirements with respect to historical swaps. The entities affected by the regulations include swap dealers ("SDs"), major swap participants ("MSPs"), and counterparties to swaps who are neither SDs nor MSPs (non-SD/MSP counterparties). The Commission has previously established certain definitions of "small entities" to be used in evaluating the impact of Commission regulations on such entities in accordance with the Regulatory Flexibility Act. In its previous determinations, the Commission has concluded that designated contract markets and derivatives clearing organizations are not small entities for the purposes of the RFA. Similarly, SDs, MSPs and SEFs, have been certified by the Commission not to be small entities in other recent rulemakings implementing the requirements of the Dodd-Frank Act.[1]

The Commission has attempted to lessen the recordkeeping and reporting burden faced by non-SD/MSP counterparties and believes that the records required under the rule are already kept by swap counterparties in their normal course of business. Thus, for example, the

[1] See respectively, Registration of Swap Dealers and Major Swap Participants, 77 FR 2613, 2620 (Jan. 19, 2012) and 75 FR 71,379, 71,385( Nov. 23, 2010) (swap dealers and major swap participants); Requirements for Derivatives Clearing Organizations, Designated Contract Markets, and Swap Execution Facilities Regarding the Mitigation of Conflicts of Interest, 75 FR 63732, 63746, Oct. 18, 2010 (SEFs); Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 76 FR 29818, 29868 (May 23, 2011) (Products).

recordkeeping requirements of section 46.2 do not require non-SD/MSP counterparties to revise or recreate data for those swaps retroactively. In this instance, the recordkeeping requirements of this final rule will not impose costs on non-SD/MSP counterparties. Furthermore, the rule requires non-SD/MSP counterparties to make data reports only with respect to swaps in which neither counterparty is an SD or MSP. The considerable majority of swaps involve at least one SD or MSP. Additionally, for swaps that were no longer in existence as of April 25, 2011, the rule permits counterparties to make the required data reports via any method selected by the counterparty. For these reasons, the Commission believes that the burden on non-SD/MSP counterparties would be lessened.

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 or to report historical swap data required by the regulations would adversely affect the Commission's ability to ensure that complete data concerning all swaps is maintained in swap data repositories and available to the Commission and other regulators, as required by the Dodd-Frank Act.

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;

For each historical swap in existence as of or after the enactment of the Dodd-Frank Act, but expired prior to April 25, 2011, the final rule requires only an initial report. Each historical swap in existence on or after April 25, 2011, will be reported electronically to an SDR.on or before the applicable compliance date specified in the Commission's final swap data rules in part 45, or to the Commission (pursuant to § 46.8) if no SDR accepts swaps in the asset class in question as of the applicable compliance date. This report will be a single initial data report. The regulations require reporting to the Commission only in the exceptional case of a swap in an asset class for which no swap data repository currently accepts swap data. Such reporting would be required only when requested by the Commission.

For each swap that remains in existence after the compliance date, the reporting counterparty must report swap continuation data (including changes to the minimum primary economic terms listed in Appendix 1 of the final rule). However, the continuation data burden requirements are those provided for in the part 45 rules.[2]

- 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. The regulations call for reporting swap data electronically. Paper reporting for historical swaps expired or terminated prior to April 25, 2011, will occur

[2] See Data Final Rules, 77 FR 2136, 2174 (January 13, 2012).

only if this method is chosen by the reporting counterparty. It is not required, and the rule establishes no requirement for a written response in fewer than 30 days.

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

This question does not apply. The regulations call for reporting swap data electronically. Paper reporting for historical swaps expired or terminated prior to April 25, 2011, will occur only if this method is chosen by the reporting counterparty. It is not required, and the rule establishes no requirement for a written response in fewer than 30 days.

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

Section 46.2 requires affected entities to keep records on historical swaps through the life of the swap, and for a period of at least five years from the final termination of the swap. This retention period is required because swap transactions can continue to exist over substantial periods of time, during which their key economic terms can change. Accordingly, swaps must be monitored by the Commission and other financial regulators throughout their existence, pursuant to the Dodd-Frank Act. Furthermore, a retention period of five years following the termination of the swap is required to provide regulators with a complete picture of the recent swap market.

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

This question does not apply. The regulation does 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.

The Commission's regulations for swap data repositories require SDRs to maintain safeguards against the misappropriation or misuse of swap data. The Commission is prohibited (with limited exceptions) from disclosing swap data pursuant to Section 8 of the CEA where it would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.

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

Comments on this information collection were solicited in the notice of proposed rule-making, 76 FR 22833, 22840 (April 25, 2011). The Commission received one comment on the information collection out of 12 public comments that specifically addressed the burden estimates in the notice of proposed rulemaking. Encana commented that the 10 hour one-time burden estimate in the proposal for non-reporting entities was too low. The Commission has made modifications to the collections of information in the final rule. Specifically, the Commission has revised its estimates provided for in the proposal. The Commission indicates in the final rule that the recordkeeping requirements of section 46.2 do not require non-SD/MSP counterparties to retroactively revise or recreate data for historical swap in existence on or after April 25, 2011. As further detailed in questions 12 and 13 of this supplementary statement, the Commission has increased to 55 hours the one-time reporting burden for non-SD/MSP reporting counterparties.

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.

Public roundtables were held on September 14, 2010, January 28, 2011, and June 6, 2011, at the CFTC headquarters in Washington, DC. At the roundtables, representatives from affected sectors of the swap markets engaged in public dialogue with members of Commission staff who are responsible for drafting the regulations. The roundtable discussions addressed issues relating to the reporting of data to SDRs, e.g., who would report the data, how frequently the data would be reported, and what data should be reported. Public transcripts of the roundtable discussion are available on the Commission's Internet web site at www.cftc.gov.

Throughout the drafting process, CFTC staff also met and consulted with swap industry participants as well as other U.S. federal regulators and agencies. The purpose of these meetings was to obtain information on current practices within the swap market and to obtain input on the practices to be set forth in the regulations. The meetings focused on issues similar to the questions discussed at the roundtable.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years—even if the

collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

No such circumstances are anticipated.

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

This question does not apply.

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

The Commission 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 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.

New collections of information are imposed by section 46.2 and section 46.3. As detailed below, there is an estimated one-time burden for each of these regulations, for a total estimated one-time hour burden cost of $6,340,375.

Regulation 46.2: Recordkeeping Burdens

For swaps that are in existence on or after the enactment of the Dodd-Frank Act, but are expired as of the publication of April 25, 2011, section 46.2 requires that parties simply maintain the swap records already in their possession, in the form in which they are already maintained. This does not represent a new burden to affected entities; rather, this burden was previously imposed and accounted for in the interim final rule for reporting pre-enactment swap transactions, published on October 14, 2010, and the interim final rule for reporting certain post-enactment swap transactions, published on December 17, 2010.

For historical swaps that are in existence as of April 25, 2011, section 46.2 requires the counterparties to keep the required records beginning on April 25, 2011and through the life of the swap, and for a period of at least five years from the final termination of the swap. The rule requires counterparties to keep records of a minimum set of primary economic data relating to such swaps. The Commission believes that counterparties already possess this set of primary economic data as part of their normal business practices.

After the compliance date specified in final rule and in the Commission's final swap data rules in part 45, section 46.2 provides that counterparties must record information required by recordkeeping provisions of those final swap rules only if such information is available to the counterparty on or after the compliance date specified in those final rules. In calculating the burden of this recordkeeping requirement, the Commission has not included the burdens occurring after the compliance date specified in the Commission's final swap data rules in part 45; the burden occurring after the compliance date is subsumed by the recordkeeping burdens calculated for those final rules.[3] Therefore, for this rule, the Commission only calculated the recordkeeping burden for the time period beginning with the publication date of this rule, and ending on the compliance date specified in the part 45 final rules.[4]

[3] The recordkeeping burden for those final rules is calculated based on the number of annual counterparties to swaps and therefore implicitly include counterparties to pre-enactment and transition swaps that are unexpired after the compliance date.

[4] These are one-time recordkeeping costs, which necessarily take place in the period prior to the compliance date; therefore, the applicable recordkeeping burden applies during the period between the publication date and compliance date of part 46, rather than the one year noted in the proposal.

The Commission estimates that 30,000 non-SD/MSP counterparties will be affected by these recordkeeping burdens during this time.[5] The Commission notes that this final rule allows non-SD/MSP counterparties to retain records in either an electronic or paper form, which will facilitate recordkeeping for less technologically resourced counterparties, who will likely choose to retain the records in the form in which they currently exist. The recordkeeping requirements of section 46.2 do not require non-SD/MSP counterparties to retroactively revise or recreate data for historical swap in existence on or after April 25, 2011. Thus, the Commission is of the view that the recordkeeping requirements of the final rule will not impose costs on non-SD/MSP counterparties.

With respect to SDs and MSPs (an estimated 125 entities or persons),[6] which will have higher levels of swap recording activity than non-SD/MSP counterparties, the Commission estimates that this requirement imposes an initial non-recurring burden of 335 hours per SD/MSP counterparty at a cost of $22,172, equating to an aggregate estimated one-time burden of 41,875 hours at a cost of $2,771,500 for all SD/MSP counterparties. The Commission also estimates that section 46.2 will result in retrieval costs for swap counterparties that do not currently have the ability to retrieve records within the required timeframe. The Commission expects that this requirement will present costs to registered entities and swap counterparties in the form of non-recurring investments in technological systems and personnel associated with establishing data retrieval processes, and recurring expenses associated with the actual retrieval of swap data records. These same costs (including non-recurring investments in technological systems and personnel associated with establishing data storage and retrieval systems, and recurring expenses associated with data storage and retrieval, and maintenance of data storage systems), however, are required to comply with the requirements of part 45. Accordingly, they are not incremental to, and inappropriate for, consideration in this rulemaking.[7]

Regulations 46.3, 46.4, 46.8, 46.10 and 46.11: Reporting Burdens

Pursuant to sections 46.3 and 46.4, for historical swaps that expired prior to April 25, 2011, the final rules require that reporting counterparties report to a SDR on the compliance date such information relating to the terms of the transaction as was in the reporting counterparty's possession on or after the publication date of the relevant Interim Final Rule (October 14, 2010 for pre-enactment swaps and December 17, 2010 in the case of transition swaps). This

[5] The Commission has previously estimated that there are annually 30,000 non-SD/MSP entities who are counterparties to a swap (see, e.g., the Commission's Paperwork Reduction Act statement for the Swap Data Recordkeeping and Reporting Requirements Proposed Rulemaking).

[6] The Commission previously estimated that as many as 250 SDs and 50 MSPs would register. After recently receiving additional information, particularly a letter from Thomas Sexton, NFA Senior Vice President and General Counsel to Gary Barnett, Director of the Division of Swap Dealer and Intermediary Oversight, the Commission is revising its estimate downward. Accordingly, the Commission now believes that approximately 125 Swaps Entities, including only a handful of MSPs, will register with the Commission as SDs or MSPs.

[7] These are one-time recordkeeping costs, which necessarily take place in the period prior to the compliance date. For the purposes of this rulemaking, the Commission has considered only the one-time costs associated with recordkeeping; as noted in the part 46 Consideration of Costs and Benefits section, the forward-looking (recurring) costs associated with recordkeeping are already covered by the recurring costs of recordkeeping enumerated in the part 45 Consideration of Costs and Benefits section. See Final Data Rules, 77 FR 2136, 2171.

information may be reported via any method selected by the reporting counterparty. The Commission has not calculated the burden for this requirement to the extent the Commission has previously calculated such burden in the PRA analyses for the Interim Final Rule covering "pre-enactment swaps" and "transition swaps."

For historical swaps that are in existence on or after April 25, 2011, the rule requires only an initial data report. The frequency of the report would be once per swap, and the report would occur on the compliance date specified in the Commission's final swap data recordkeeping and reporting regulations in part 45. The initial data report must contain all of the minimum primary economic terms data listed in Appendix 1 that were in the possession of the reporting counterparty on or after April 25, 2011, the legal entity identifier of the reporting counterparty, the internal counterparty identifier used by the reporting counterparty to identify the non-reporting counterparty, and the internal transaction identifier used by the reporting counterparty to identify the swap. The report will be made to an SDR electronically, or to the Commission if no SDR accepts such a swap under § 46.8.

For each such swap that remains in existence after the compliance date, the reporting counterparty must report swap continuation data as provided in part 45 of this chapter, with the exception that such reports need only include changes to the minimum primary economic terms listed in Appendix 1 to this part, rather than changes to the larger list of primary economic terms provided in part 45. Continuation data must be reported to the same SDR which received the initial data report. The burden for this ongoing reporting of continuation data is subsumed by the reporting burden calculated for the Commission's final swap data recordkeeping and reporting regulations in part 45.[8] Therefore, for this rulemaking, the Commission did not calculate a burden estimate for ongoing reporting.

For historical swaps still in existence on or after April 25, 2011, the Commission anticipates that the initial reporting required by sections 46.3 and 46.4 will to a significant extent be automatically completed by electronic computer systems; the following burden hours are calculated based on the annual burden hours necessary to oversee, maintain, and utilize the reporting functionality. SDs and MSPs (an estimated 125 entities or persons) are anticipated to have high levels of reporting activity; the Commission estimates that their average one-time burden to be approximately 285 hours per MSP or SD reporting counterparty at a cost of $20,169,[9] equating to an estimated one-time aggregate burden of 35,625 hours at a cost of $2,521,125 for all SD/MSP reporting counterparties. The Commission believes that this is a reasonable assumption due to the volume of swap transactions that will be processed or entered into by these entities, the varied nature of the information required to be reported, and the frequency with which information may be required to be reported.[10]

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[8] The reporting burden for those final rules is calculated based on the number of annual "reporting counterparties" to swaps and therefore implicitly include reporting counterparties to pre-enactment and transition swaps that are unexpired after the compliance date.

[9] The Commission obtained this estimate in consultation with the Commission's information technology staff.

[10] The estimated burden hours have been adjusted from the proposal. The estimated burden hours were obtained in consultation with the Commission's information technology staff.

Non-SD/MSP counterparties who will be required to report—which presently include an estimated 1,000 entities[11]—are anticipated to have lower levels of activity with respect to reporting. Of those 1,000 non-SD/MSPs, the Commission believes that a majority, estimated now at 75%, or 750 entities, will contract with third parties to satisfy their reporting obligations. The identity of such third parties, the composition of the marketplace for third party services, and the costs to third parties to provide reporting services given the economies of scale and scope they may realize in providing those services are all presently unknowable. Therefore, the Commission does not believe it is feasibly to quantify the fees charged by third parties to non-SD/MSPs at the present time, but believes that they will likely vary with the volume of reports to be made. For those estimated 250 non-SDs/non-MSPs who are required to report swap transaction and pricing data to an SDR and do not contract with a third party, the Commission estimates a one-time burden of 55 hours per non-SD/MSP reporting counterparty at a cost of $4,191, equating to an aggregate estimated one-time burden of 13,750 hours at a cost of $1,047,750 for all non-SD/MSP reporting counterparties that do not contract with a third party.[12]

With regards to sections 46.9, 46.10 and 46.11, recordkeeping and reporting requirements that exist after compliance dates and those of sections are covered by other rulemakings for which the Commission prepared and submitted an information collection request to OMB, the burdens associated with those requirements are not being accounted for in the information collection request for this rulemaking.[13]

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.

[11] The estimated burden hours have been adjusted from the proposal. This is the estimated number of non-SD/MSP counterparties who will be required to report in a given year. Only one counterparty to a swap is required to report, typically an SD or a MSP as determined by § 45.8. Therefore, a non-SD/MSP counterparty that is in a swap with an SD or MSP counterparty will not be subject to the reporting obligations of §§ 46.3 and 46.4.

[12] In the event that all estimated 1,000 non-SD/MSP reporting counterparties elect to perform their reporting functions themselves, rather than contract with a third-party service provider, the aggregate burden would be 55,000 hours at a cost of $4,191,000.

[13] Costs associated with reporting are already covered by the Part 45 rules. See Data Final Rules, 77 FR 2136, 2171.

- 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.

Although sections 46.2 and 46.3 require affected entities to undertake capital and start-up costs, as well as annual operation and maintenance costs, relating to setting up systems for recordkeeping and reporting of data, these costs do not represent new costs to the affected entities. The Commission believes that the entities will use the same recordkeeping and reporting systems to comply with both part 45 and part 46.

In its Supporting Statement relating to part 45 regulations, the Commission previously laid out costs to affected entities for setting up recordkeeping and reporting systems. Therefore, the instant part 46 does not impose any additional (i.e., not previously accounted for) costs on affected entities.

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

The Commission will have the following costs relating to the information collections required by part 46: (1) costs relating to the need of Commission staff to review and analyze the collected documents and information; (2) costs relating to the technology that must be set up and maintained by the Commission to receive and process the information collected. These costs were already accounted for in the Commission's response to Question 14 in the OMB Supporting Statement relating to part 45. Therefore, the instant part 46 does not represent 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.

This question does not apply.

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

As required in Dodd-Frank Act Section 727, the Commission will aggregate the data provided to SDRs and provide a written report to the public on a semiannual basis. There is no end date for these reports issued by the Commission. As required by the Dodd-Frank Act, the reports will contain information relating to trading and clearing in the major swap categories as well as market participants and developments in new products. In preparing the reports, the Commission is required to consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and other regulatory bodies as necessary.

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.