

SUPPORTING STATEMENT FOR NEW AND
REVISED INFORMATION COLLECTIONS

Ownership and Control Reports, Forms 102/102S, 40/40S, and 71
(Trader and Account Identification Reports)

OMB CONTROL NUMBER 3038-[NEW]

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.

The Commodity Futures Trading Commission (“CFTC” or “Commission”) published a notice of proposed rulemaking (“Notice”) where it proposed certain amendments to the existing reporting rules and forms as they pertain to positions in open contracts. In the Notice, the Commission also proposed a revised approach to the ownership and control report (“OCR”), which previously had been proposed¹ as a separate data collection.² Specifically, the Commission proposed to expand the reporting rules and forms so that they may also be used to identify “volume threshold accounts,” defined as individual trading accounts that trigger volume-based reporting thresholds on a reporting market³ that is a registered entity under §§ 1a(40)(A) or 1a(40)(D) of the Commodity Exchange Act (“CEA” or “Act”) (i.e., a designated contract market (“DCM”) or a swap execution facility (“SEF”)), regardless of whether such activity results in reportable positions.

The proposed amendments to the reporting rules and forms would achieve three primary purposes. First, they would broaden the utility of existing Form 102 through a new, expanded Form 102 (“New Form 102”), partitioned into three sections: section 102A for the identification of position-based special accounts (“102A,” “Form 102A,” or “New Form 102A”); section 102B—the former OCR component—for the collection of ownership and control information from clearing members on volume threshold accounts associated with DCMs or SEFs (“102B,” “Form 102B,” or “New Form 102B”); and section 102S for the submission of 102S filings for swap counterparty and customer consolidated accounts with reportable positions (“102S,” “Form 102S,” “New Form 102S,” or “102S filings”). Second, the proposed amendments would enhance the Commission’s surveillance and large trader reporting programs for futures, options on futures, and swaps by clarifying which accounts are required to be reported on Form 102A; requiring the reporting on Form 102A of the trading accounts that comprise each special account; requiring the reporting of certain omnibus account information on Form 71 (“Form 71” or “New Form 71”); updating Form 40 (“New Form 40”); and integrating the submission of 102S and 40S

¹ See Commission, Notice of Proposed Rulemaking: Ownership and Control Report, 75 FR 41775 (July 19, 2010) (“OCR NPRM”).

² The Commission withdrew the OCR NPRM contemporaneously with the publication of the Notice in the Federal Register.

³ The Commission proposed to revise § 15.00(q) to define reporting market as a “designated contract market or a registered entity under § 1a(40) of the Act.”

filings into the general Form 102 and Form 40 reporting program. Finally, the proposed amendments would provide for the electronic submission of New Forms 102, 40, and 71.

The proposed rules would enhance the Commission's existing trade practice and market surveillance programs for futures and options on futures, and facilitate surveillance programs for swaps, by expanding the information presently collected on existing Forms 102 and 40, and introducing a new information collection for omnibus volume threshold accounts in New Form 71. The rules would also help implement the 102S and 40S filing requirements recently adopted in connection with the Commission's part 20 rules addressing large trader reporting for physical commodity swaps.⁴ In the aggregate, the proposed rules would help the Commission to better deter and prevent market manipulation; deter and detect abusive or disruptive trading practices; and better perform risk-based monitoring and surveillance between related accounts. Ultimately, the proposed rules would significantly enhance the Commission's ability to identify participants in the derivatives markets and to understand relationships between trading accounts, special accounts, reportable positions, and market activity.

The proposed rules respond, in part, to the increased dispersion and opacity of trading in U.S. futures markets as they continue to transition from localized, open-outcry venues to global electronic platforms. While electronic trading has conferred important informational benefits upon regulators, the concomitant increases in trading volumes, products offered, and trader dispersion have created equally important regulatory challenges. Effective market surveillance now requires automated analysis and pattern and anomaly detection involving millions of daily trade records⁵ and hundreds of thousands of position records⁶ present in the surveillance data sets received daily by the Commission.⁷

Commission staff utilizes two distinct data platforms to conduct market surveillance: the Trade Surveillance System ("TSS") and the Integrated Surveillance System ("ISS"). Broadly speaking, TSS captures transaction-level details of trade data, while ISS facilitates the storage, analysis, and mining of large trader data from a position perspective. One important component of TSS is the Trade Capture Report ("TCR"). Trade Capture Reports contain trade and related order data for every matched trade facilitated by an exchange, whether executed via open-outcry, electronically, or non-competitively. Among the data included in the TCR are trade date, product, contract month, trade time, price, quantity, trade type (e.g., open outcry outright future, electronic outright option, give-up, spread, block, etc.), executing broker, clearing member, opposite broker and clearing member, customer type indicator, trading account numbers, and numerous other data points.

⁴ See 17 CFR 20.5(a) and (b), the 102S and 40S filing requirements. Final part 20 was published in the Federal Register on July 22, 2011. See Commission, Large Trader Reporting for Physical Commodity Swaps, 76 FR 43851 (July 22, 2011) ("Large Trader Reporting for Physical Commodity Swaps").

⁵ For example, in November 2011, the Commission received an average of 7.4 million trade records per day from electronic trading on DCMs.

⁶ For example, in November 2011, the Commission received an average of 617,000 position records per day from reporting firms and exchanges.

⁷ Daily trade and position records are provided to the Commission pursuant to §§ 16.02 and 17.00, respectively. For further discussion of the Commission's large trader reporting program, see sections III (A) and (B) of the Notice.

Effective market surveillance requires that surveillance data sets received by the Commission be sufficiently comprehensive and contain sufficient identified reference points to uncover relationships where none appear to exist and to analyze information based on flexible criteria. The collection of additional trader identification and market participant data on the forms proposed in the Notice would help the Commission to better satisfy these data requirements. For example, elements of the proposed data collection would enable the Commission to link ISS data (which includes large traders' names, but not their trading account numbers) to TSS data (which includes trading account numbers but not names).

The information proposed to be collected would also help the Commission to better identify and categorize individual trading accounts and market participants that triggered position or volume-based reporting thresholds. For example, New Form 102A would, among other changes, require reporting firms to identify the constituent trading accounts of each reported special account. In this manner, New Form 102A would ensure a new level of interoperability between the Commission's large trader data and its trade data, and would permit Commission surveillance staff to quickly reconstruct trading for any special account. New Form 102B would, for the first time, require identification of trading accounts based solely on their gross trading volume. This new information collection would enhance the Commission's trade practice surveillance program by revealing connections of ownership or control between trading accounts that otherwise appear unrelated in the TCR. More generally, it would facilitate Commission efforts to deter and detect attempted market disruptions that may occur even in the absence of large open positions. Finally, the automated collection of such information via electronic forms, rather than through ad-hoc, manual processes, would permit both the Commission and market participants to administer the reporting programs and related work more efficiently and effectively.

The Commission's existing reporting rules, and those proposed in the Notice, are primarily implemented and/or proposed by the Commission pursuant to the authority of sections 4a, 4c(b), 4g, and 4i of the Act.⁸ Section 4a of the Act permits the Commission to set and enforce speculative position limits, and to approve exchange-set position limits.⁹ Section 4c(b) gives the Commission plenary authority to regulate transactions that involve commodity options.¹⁰ Section 4g(a) of the Act requires, among other things, each futures commission merchant ("FCM"), introducing broker, floor broker, and floor trader to file such reports as the Commission may require on its proprietary and customer transactions and positions in commodities for future delivery on any board of trade in the United States or elsewhere.¹¹ In addition, section 4g(b) requires registered entities to maintain daily trading records as required by the Commission, and section 4g(c) requires floor brokers, introducing brokers, and FCMs to maintain their own daily trading records for each customer in such manner and form as to be identifiable with the daily trading records maintained by registered entities. Section 4g(d)

⁸ 7 U.S.C. 1 *et seq.* In addition, CEA § 8a(5) authorizes the Commission to promulgate such regulations as, in its judgment, are reasonably necessary to effectuate any provision of the Act or to accomplish any of the purposes of the Act. 7 U.S.C. 12a(5). Also, pursuant to the purposes enumerated in CEA § 3(b), the Act seeks to ensure the financial integrity of regulated transactions and to prevent price manipulation and other disruptions to market integrity. 7 U.S.C. 5(b).

⁹ 7 U.S.C. 6a.

¹⁰ 7 U.S.C. 6c(b).

¹¹ 7 U.S.C. 6g(a).

permits the Commission to require that such daily trading records be made available to the Commission.¹² Lastly, section 4i of the Act requires the filing of such reports as the Commission may require when positions taken or obtained on designated contract markets equal or exceed Commission-set levels.¹³ Collectively, these CEA provisions warrant the maintenance of an effective and rigorous system of market and financial surveillance.

In addition to the CEA sections described above, on July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).¹⁴ Title VII of the Dodd-Frank Act¹⁵ amended the CEA to establish a comprehensive new regulatory framework for swaps and security-based swaps. The legislation was enacted to reduce risk, increase transparency, and promote market integrity within the financial system by, among other things: (1) providing for the registration and comprehensive regulation of swap dealers and major swap participants; (2) imposing clearing and trade execution requirements on standardized derivative products; (3) creating robust recordkeeping and real-time reporting regimes; and (4) enhancing the Commission’s rulemaking and enforcement authority with respect to, among others, all registered entities and intermediaries subject to the Commission’s oversight.

As part of the Commission’s rulemaking program implementing the Dodd-Frank Act,¹⁶ the rule changes proposed in the Notice also include swaps-related considerations in connection with the Commission’s new large trader reporting rules for swaps.¹⁷ New CEA section 4t authorized the Commission to establish a large trader reporting system for significant price discovery function swaps; accordingly, the swaps-related considerations in the rules proposed in the Notice also rely in part on the Commission’s authority in CEA section 4t.

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 collected via the proposed regulations would enhance the Commission’s existing trade practice and market surveillance programs for futures and options on futures, and facilitate surveillance programs for swaps. The regulations would do so by expanding the information presently collected on existing Forms 102 and 40, and introducing a new information collection for both volume threshold accounts (in New Form 102B) and omnibus volume threshold accounts (in New Form 71). The proposed rules would also help implement the 102S and 40S filing requirements recently adopted in connection with the Commission’s part

¹² See Section I(B) of the Notice for a discussion of the trade data transmitted daily to the Commission by registered entities.

¹³ 7 U.S.C. 6i.

¹⁴ See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at <http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm>.

¹⁵ Pursuant to § 701 of the Dodd-Frank Act, Title VII may be cited as the “Wall Street Transparency and Accountability Act of 2010.”

¹⁶ See generally, <http://www.cftc.gov/LawRegulation/DoddFrankAct/index.htm>.

¹⁷ 17 CFR 20.5(a) and (b) contain the 102S and 40S filing requirements. Final part 20 was published in the Federal Register on July 22, 2011. See Commission, Large Trader Reporting for Physical Commodity Swaps, 76 FR 43851 (July 22, 2011) (“Large Trader Reporting for Physical Commodity Swaps”).

20 rules addressing large trader reporting for physical commodity swaps.¹⁸ In the aggregate, the proposed rules would help the Commission to better deter and prevent market manipulation; deter and detect abusive or disruptive trading practices; and better perform risk-based monitoring and surveillance between related accounts. Ultimately, the proposed rules would significantly enhance the Commission’s ability to identify participants in the derivatives markets and to understand relationships between trading accounts, special accounts, reportable positions, and market activity.

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 Commission is committed to utilizing technology in order to reduce reporting burdens for respondents. Accordingly, the Commission has provided for the electronic transmission of the required submissions.¹⁹

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.

Information that would be collected via New Form 102B and Form 71 is not presently collected by the Commission for any other purpose, or available for public disclosure through any other source. Portions of information collected via New Form 102 and New Form 40 are currently available via existing Form 102 and Form 40; however, existing Form 102 and Form 40 would be replaced and eliminated once the new forms are operational, thereby eliminating any overlap.

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

The proposed rules would also require certain reporting traders to complete and submit New Form 40 upon special call by the Commission. Some of these reporting traders may be “small entities” under the RFA. In 2010, under existing reporting requirements, the Commission required approximately 3,320 reporting traders to complete a Form 40, from a total population of approximately 10,000 reporting traders. Of these 3,320 Form 40s, approximately 2,500 were completed by institutions, a portion of which could potentially be small entities under the RFA. For example, the Commission has received comments on its Dodd-Frank Act rulemakings indicating that certain entities that may be required to comply with the reporting and recordkeeping requirements in the Notice have been determined by the Small Business Administration to be small entities. In particular, the Commission understands that some not-for-profit electric generators, transmitters, and distributors that may be required to comply with

¹⁸ See 17 CFR 20.5(a) and (b), the 102S and 40S filing requirements, discussed in greater detail below. Final part 20 was published in the Federal Register on July 22, 2011. See Commission, Large Trader Reporting for Physical Commodity Swaps, 76 FR 43851 (July 22, 2011) (“Large Trader Reporting for Physical Commodity Swaps”).

¹⁹ See Section V of the Notice for a description of the data submission standards and procedures.

the proposed rules have been determined to be small entities by the SBA, because they are “primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and [their] total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.”²⁰

The Commission believes that, due to the limited number of institutions likely to receive a New Form 40 request in any given year, as well as the limited nature of the New Form 40 reporting burden, the rules proposed in the Notice with respect to New Form 40 would not have a significant economic impact on a substantial number of small entities. New Form 40 would not be required on a routine and ongoing basis, but rather would be sent by the Commission on a discretionary basis in response to the reporting of an account that reaches a minimum position or volume threshold. As summarized above, in 2010 the Commission made Form 40 requests to only 25% of all reporting traders that could potentially be small entities; furthermore, some of these reporting traders were not in fact small entities. As a result, New Form 40 would be expected to affect only a small subset of the entities that may be small entities under the RFA. In addition, New Form 40 is not lengthy or complex, and would require reporting traders to provide only limited information to the Commission. The Commission estimates that a reporting trader would require only 3 hours to complete a New Form 40.

The rules proposed in the Notice regarding revised § 18.05 would also impose books and records obligations upon a new category of market participants—specifically, certain owners (but not controllers) of a volume threshold account or a reportable sub-account. Such owners may be small entities under the RFA. The Commission does not believe that the obligation to maintain books and records under revised § 18.05 would impose significant costs on the additional small entities subject to the recordkeeping requirements of such section. The Commission expects that such account owners may largely rely on the books and records that they maintain in the ordinary course of business to fulfill the requirements of revised § 18.05. The Commission also expects that a portion of the account owners subject to revised § 18.05 are subject to the position-based recordkeeping requirements of current § 18.05,²¹ and would not incur significant costs expanding their recordkeeping practices to comply with revised § 18.05. To the extent that certain small entities are required to modify their practices to comply with the volume-based recordkeeping requirements of revised § 18.05, the Commission believes that this burden is appropriate, because this requirement would: (a) ensure that (i) owners of volume threshold accounts and reportable sub-accounts and (ii) owners of reportable positions are subject to equivalent recordkeeping obligations under § 18.05, and therefore maintain books and records in a consistent format; and (b) promote the Commission’s market surveillance and investigatory functions to better deter price manipulation and other disruptions of market integrity. Accordingly, the Commission has certified pursuant to 5 U.S.C. 605(b) that the proposed rules would not have a significant economic impact on a substantial number of small entities.

²⁰ Small Business Administration, Table of Small Business Size Standards (Nov. 5, 2010). See also the regulatory flexibility analysis regarding such entities in 77 FR 1182 at 1240 (January 9, 2012), 77 FR 2136 at 2170 (January 13, 2012), and 77 FR 2613 at 2620 (January 19, 2012).

²¹ 17 CFR 18.05.

6. Describe the consequence to the Federal Program or policy activities if the collection were conducted less frequently as well as any technical or legal obstacles to reducing burden.

The Commission regulates the trading of commodity futures, options contracts, and swaps that impact a vast array of commodity prices vital to national and international commerce. If the collection were conducted less frequently the Commission may not be able to identify related accounts as rapidly, and situations such as abusive trading between related accounts and attempted manipulations or congestion may persist and potentially impact market prices.

7. Explain any special circumstances that require the collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
 - The Commission regulates the trading of commodity futures, options contracts, and swaps that impact a vast array of commodity prices vital to national and international commerce. If the collection were conducted less frequently the Commission may not be able to identify related accounts as rapidly, and situations such as abusive trading between related accounts and attempted manipulations or congestion may persist and potentially impact market prices.
- **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 proposed regulations provide for electronic reporting.
- **requiring respondents to submit more than an original and two copies of any document;**
 - This question does not apply. The proposed regulations provide for electronic reporting.
- **requiring respondents to retain records other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
 - For the purpose of enforcing the provisions of § 5(d)(17) of the Act and the Commission's regulations thereunder, Commission rule 17 CFR § 1.31 requires that: "All books and records required to be kept by the [Commodity Exchange] Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the first two years of the five-year period. All such books and records shall be open to inspection by any representative of the Commission or the U.S. Department of Justice."

- **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 proposed regulations do not require or 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 proposed regulations do not require or 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 proposed 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.**
 - If the proposed regulations are adopted, the Commission would protect proprietary information in accordance with the Freedom of Information Act and 17 CFR part 145, “Commission Records and Information.” In addition, § 8(a)(1) of the Act strictly prohibits the Commission, unless specifically authorized by the Act, from making public “data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.”²² The Commission is also required to protect certain information contained in a government system of records according to the Privacy Act of 1974.²³

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.

A copy of the Notice is attached for OMB’s review. It has been submitted for publication (but not yet published) in the Federal Register.

²² 7 U.S.C. 12(a)(1).

²³ 5 U.S.C. 552a.

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.

The Commission has solicited, and plans to continue soliciting, comments through publication of proposed rules in the Federal Register. Additionally, as stated in the Notice, the Commission intends to work closely with market participants and potential reporting entities to address potential information technology standards to be associated with the proposed rules. In connection with the previously proposed OCR rulemaking, the Commission received both written comments and remarks provided at a public roundtable attended by numerous industry representatives. The Commission found merit in many of the commenters' recommendations and incorporated several of these recommendations in the proposed rules. The Commission would also, on an ongoing basis, solicit public comments through the notice required by 5 CFR 1320.8(d).

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.

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

If the proposed regulations are adopted, the Commission would protect proprietary information in accordance with the Freedom of Information Act and 17 CFR part 145, "Commission Records and Information." In addition, § 8(a)(1) of the Act strictly prohibits the Commission, unless specifically authorized by the Act, from making public "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers."²⁴ The Commission is also required to protect certain information contained in a government system of records according to the Privacy Act of 1974.²⁵

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

²⁴ 7 U.S.C. 12(a)(1).

²⁵ 5 U.S.C. 552a.

the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

This question does not apply. None of the proposed regulations require the giving 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.**

I. Methodology

Wage Rate

Commission staff estimated the wage rate based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association (“SIFMA”). Commission staff arrived at an hourly wage rate of \$69.41 using figures from a weighted average of salaries and bonuses across different professions from the SIFMA Report on Management & Professional Earnings in the Securities Industry 2011, modified to account for an 1800-hour work-year and multiplied by 1.3 to account for overhead and other benefits. The wage rate is a weighted national average of salary and bonuses for professionals with the following titles (and their relative weight): “programmer (senior)” (30% weight); “programmer” (30% weight); “compliance advisor (intermediate)” (20%), “systems analyst” (10%), and “assistant/associate general counsel” (10%).

Submission Method

In the Notice, the Commission described two distinct filing methods that it would accommodate for New Forms 102A, 102B and 102S.²⁶ For the purposes of this supporting statement, the Commission assumed that reporting entities submitting New Form 102A, 102B or 102S would select the submission method with the lowest estimated total cost.²⁷ It should be noted however, that in practice, some reporting entities may choose the alternative submission method where it is cost-effective to do so. The Commission understands that providing options to the industry should lower costs relative to failing to provide these options. As a result, the actual reporting costs associated with New Forms 102A, 102B and 102S are likely to be lower than the estimated costs associated with one mandated method, as the Commission has calculated herein.

Burden Estimated by Regulation and Associated Form

In addition, the Commission notes that reporting and recordkeeping burdens arising from each regulation and associated form/filing were estimated independently of the requirements of the other regulations and associated forms, and that substantial synergies are likely to exist across the systems and data necessary to meet the reporting requirements. For example, many reporting firms filing New Form 102A would also file New Form 102B, and would be able to leverage systems and information necessary for filing one form to meet the requirements of the other. Accordingly, total reporting and recordkeeping costs are likely to be lower than the sum of the costs associated with each form individually, as the Commission has calculated herein.

Availability of Required Information

All burden estimates assume that information required by each form is generally available within the reporting entity; however, in preparing its estimates, the Commission did make an effort to account for the added burden associated with assembling data distributed among multiple systems and/or databases within a reporting entity.

II. Reporting Burden by Proposed Regulation and Associated Form

Proposed § 17.01(a) - New Form 102A

The Commission estimates that the total initial development burden would average 264 hours per reporting entity. The Commission also estimates that the highly automated nature of the submission method would virtually eliminate the marginal costs associated with each additional submission or each additional record contained in a submission. Accordingly, the Commission estimates that 102A change and refresh updates would not increase a reporting entity's burden.²⁸ The Commission further estimates that ongoing operation and maintenance costs would average 53 hours per year no matter how many records are contained in a submission. The total annualized development burden and the ongoing operation and

²⁶ Method 1 provides for the use an automated program to submit forms via secure FTP. Method 2 provides for the online submission of each form via a secure portal provided by the Commission. With the exception of New Forms 102A, 102B and 102S, all forms described in this collection must be submitted online via a secure portal provided by the Commission.

²⁷ As described in the Notice, Method 1 is projected to be the lower cost submission method for New Forms 102A and 102B. Method 2 is projected to be the lower cost submission method for New Form 102S.

²⁸ New Form 102A change and refresh updates are provided for in proposed § 17.02(b) of the Notice.

maintenance cost burden (total yearly costs) would equal approximately 106 hours per reporting entity.²⁹

A recent assessment of Commission data collection efforts demonstrated that the Commission receives Form 102 submissions from approximately 250 reporting entities annually. The Commission anticipates that it would receive New Form 102A submissions from a similar number of reporting entities. The Commission estimates that the total annual industry burden for New Form 102A would equal 26,500 hours. Using an estimated wage rate of \$69.41 per hour, annual costs for 102A filings are estimated at \$1,839,365.³⁰ The variance in burden hours and annualized costs from existing Form 102³¹ is attributable to an increase in the amount of information requested per account, the costs associated with developing an electronic submission system, and updated wage rates.

²⁹ All annualized development burden estimates are based on 5 year, straight line depreciation. The 106 hour figure is arrived at by dividing 264 hours (initial development burden per reporting entity) by 5 years, which results in an estimated annualized initial development burden of 52.8 hours per reporting entity. 52.8 hours plus 53 hours (annualized ongoing operation and maintenance costs per reporting entity) equals approximately 106 hours per reporting entity.

³⁰ The \$1,839,365 figure is arrived at by multiplying 106 hours by 250 reporting entities (equals 26,500 hours) by \$69.41 (equals \$1,839,365).

³¹ New Form 102A is directly analogous to the existing Form 102 currently in use.

Proposed § 17.01(b) - New Form 102B

The Commission estimates that the total initial development burden should average 264 hours per reporting entity. The Commission also estimates that the highly automated nature of the submission method would virtually eliminate the marginal costs associated with each additional submission or each additional record contained in a submission. Accordingly, the Commission estimates that 102B change and refresh updates would not increase a reporting entity's burden. The Commission further estimates that ongoing operation and maintenance costs would average 53 hours per year no matter how many records are contained in a submission. The total annualized development burden and the ongoing operation and maintenance cost burden (total yearly costs) equals approximately 106 hours per reporting entity.³²

Because New Form 102B provides a new volume-based reporting structure not found in existing Form 102, the Commission is unable to refer to historical reporting statistics. Instead, the Commission estimated the number of New Form 102B reporting entities by estimating the number of clearing members associated with trading accounts that the Commission projects would qualify as volume threshold accounts.³³ For volume threshold accounts associated with DCMs, the Commission anticipates that it would receive New Form 102B submissions from approximately 100 reporting entities annually. For volume threshold accounts associated with SEFs, the Commission anticipates that it would receive New Form 102B submissions from approximately 75 reporting entities annually. For Form 102B reporting entities with volume threshold accounts associated with DCMs, the Commission estimates that the total annual industry burden for the reporting of such accounts on New Form 102B would equal 10,600 hours.³⁴ For Form 102B reporting entities with volume threshold accounts associated with SEFs, the Commission estimates that the total annual industry burden for the reporting of such accounts on New Form 102B would equal 7,950 hours.³⁵ Using an estimated wage rate of \$69.41 per hour, annual costs for DCM-related 102B filings are estimated at \$735,746, while annual costs for SEF-related 102B filings are estimated at \$551,810.³⁶ Collectively, annual costs for 102B filings are estimated at \$1,287,556.

Proposed § 17.01(c) - New Form 71

³² All annualized development burden estimates are based on 5 year, straight line depreciation.

³³ As described in the Notice, only clearing members are required to complete New Form 102B.

³⁴ The 10,600 hour figure is arrived at by multiplying 106 hours (annualized development burden and ongoing operation and maintenance burden per reporting entity) by 100 reporting entities.

³⁵ The 7,950 hour figure is arrived at by multiplying 106 hours (annualized development burden and ongoing operation and maintenance cost burden per reporting entity) by 75 reporting entities.

³⁶ The \$735,746 figure is arrived at by multiplying 10,600 by \$69.41, while the \$551,810 figure is arrived at by multiplying 7,950 by \$69.41.

The Commission estimates that, on average, New Form 71 would create an annual reporting burden of 8 hours per filing. The Commission notes that New Form 71 filings do not require change or refresh updates. Accordingly, the burdens and costs associated with such updates are not relevant to the calculation of burdens and costs for New Form 71 filings. The Commission also notes that it is likely to request the resubmission of New Form 71 filings annually.

The number of New Form 71 filings per year would vary according to the number of special calls for the form made by the Commission. In order to estimate the annual number of New Form 71 filings (*i.e.*, the number of special calls made), the Commission considered the number of existing Form 102 omnibus special accounts and estimated that New Form 102B would capture a similar number of DCM-related omnibus volume threshold accounts.³⁷ Furthermore, the Commission estimated that it would require a New Form 71 for every such omnibus volume threshold account. Commission records indicate 526 omnibus special accounts in 2010, and the Commission anticipates an equal number of DCM-related omnibus volume threshold accounts. Because the Commission does not presently receive filings pertaining to SEF-related omnibus volume threshold accounts, the Commission is unable to refer to historical reporting statistics to directly estimate the number of New Form 71 filings it might require. To estimate the number of SEF-related omnibus volume threshold accounts, the Commission assumed that SEF transactions would likely be intermediated to a lesser extent than DCM transactions. The Commission estimates that there may be 35 percent as many SEF-related omnibus volume threshold accounts as DCM-related omnibus volume threshold accounts. Accordingly, the Commission estimates that there would be 184 SEF-related omnibus volume threshold accounts. Based on an estimated 526 DCM-related New Form 71 filings per year, the Commission estimates an aggregate reporting burden of 4,208 hours annually for such filings. Based on an estimated 184 SEF-related New Form 71 filings per year, the Commission estimates an aggregate reporting burden of 1,472 hours annually for such filings. Using an estimated wage rate of \$69.41 per hour, annual costs for DCM-related New Form 71 filings are estimated at \$292,077, while annual costs for SEF-related New Form 71 filings are estimated at \$102,172. Collectively, annual costs for New Form 71 filings are estimated at \$394,249.

Proposed § 18.04(a) - New Form 40 – Arising From New Form 102A

³⁷ The Commission is estimating the number of New Form 71 filings in this manner because New Form 71 provides for an omnibus account reporting structure that does not currently exist, making direct estimates unfeasible.

The number of New Form 40 filings arising from New Form 102A filings would vary according to the number of special calls made by the Commission.³⁸ An analysis of the Commission's existing Form 40 practices demonstrates that the Commission makes approximately 3,000 special calls annually. However, as explained in the Notice, the Commission is reiterating that its regulations require reporting firms to separately aggregate positions by common ownership and by common control for the purpose of identifying and reporting special accounts. The Commission anticipates that the number of special calls made annually as a result of New Form 102A filings may increase by 75 percent. The Commission estimates that New Form 40 would result in annual filings from 5,250 reporting entities.

The Commission estimates that each filing estimated above would require 3 hours to complete,³⁹ resulting in an estimated total annual reporting burden of 15,750 hours. Using an estimated wage rate of \$69.41 per hour, annual costs for New Form 40 filings arising from New Form 102A filings are estimated at \$1,093,208.⁴⁰ The variance in burden hours and annualized costs from existing Form 40 is attributable to an increase in the amount of information requested, a projected increase in the number of special calls and attendant New Form 40 filings, and updated wage rates.

Because the proposed rules anticipate a web-based portal and user profile system, those entities required to complete a New Form 40 would also be under a continuing obligation, per direction in the special call, to update and maintain the accuracy of their profile information by periodically visiting the online New Form 40 portal to review, verify, and/or update their information. However, the Commission believes that the time required to update information contained in New Form 40 using the online portal would be de minimis.

Proposed § 18.04(b) - New Form 40 – Arising From New Form 102B

³⁸ The proposed § 18.04(a) New Form 40 filing would arise from New Form 102A and is directly analogous to existing Form 40. Proposed § 18.04(b) requires the same New Form 40 filing, but the filing obligation would arise from New Forms 102B and 71. See the Notice for additional detail.

³⁹ The Commission's estimate of 3 hours per response reflects an initial, one-time burden of 10 hours, annualized over a five-year period, plus an additional hour per year for change updates.

⁴⁰ As discussed in the introduction to this response, the Commission is evaluating the burden associated with each regulation and associated form separately. It should be noted that the burdens estimated for New Form 40 filings, arising from proposed §18.04(a) and §18.04(b), are especially duplicative. For example, many of the traders that complete New Form 40 pursuant to 18.04(a) may also be volume threshold account controllers that could receive New Form 40 pursuant to 18.04(b). In practice, if the Commission possesses a recent Form 40 filing from a reporting entity, it may elect not to request a second Form 40 filing from that same entity if the entity becomes reportable under an additional provision of the proposed regulations and there is no additional information to be gained.

The number of New Form 40 filings arising from volume threshold accounts and reportable sub-accounts would vary according to the number of special calls made by the Commission.⁴¹ An analysis of the Commission's existing Form 40 practices demonstrates that the Commission makes approximately 3,000 special calls annually; however, such calls were made to special account owners and controllers identified via existing DCM-related Form 102. The Commission estimates there could be a much greater number of New Form 102B and New Form 71 filings. As a result, the Commission estimates that the number of potential New Form 40 reporting entities (arising from New Form 102B and New Form 71 filings) would increase as well. The Commission anticipates that it would receive approximately 12,000 DCM-related New Form 40 filings annually arising from New Form 102B and approximately 1,550 SEF-related New Form 40 filings annually arising from New Form 102B, including filings arising from ownership and control of volume threshold accounts.⁴² Each filing is estimated to require 3 hours,⁴³ resulting in an estimated total annual reporting burden of 36,000 hours for DCM-related New Form 40 filings and 4,650 hours for SEF-related New Form 40 filings. The Commission estimates that the time required to update information contained in New Form 40 would be de minimis. Using an estimated wage rate of \$69.41 per hour, annual costs for DCM-related New Form 40 filings arising from volume threshold accounts and reportable sub-accounts are estimated at \$2,498,760, while annual costs for SEF-related New Form 40 filings arising from volume threshold accounts and reportable sub-accounts are estimated at \$322,757. Collectively, annual costs for New Form 40 filings are estimated at \$2,821,517.

Proposed § 20.5(a) - 102S Filing

The proposed rules do not alter the regulations that determine whether an account is reportable via 102S. That is, the number of entities required to file 102S would not change as a result of the proposed rules. Accordingly, the Commission used its experience to date with 102S filings to estimate the number of 102S reporting entities. The Commission anticipates that it would receive 102S filings from approximately 75⁴⁴ reporting entities annually. Each reporting entity would complete and submit each New Form 102S online via a secure portal provided by the Commission. The Commission estimates that the total initial development burden would average 17 hours per 102S record. The Commission also estimates that annual ongoing costs, including change and refresh updates, would average 7 hours per year for each 102S record. The sum of the annualized development burden and the ongoing operation and maintenance cost burden (total yearly cost) equals approximately 10 hours per 102S record.⁴⁵

⁴¹ Volume threshold accounts would be identified via New Form 102B while reportable sub-accounts would be identified via New Form 71.

⁴² As with 102A records, the Commission estimates that in approximately 25 percent of filings, the owner and the controller of a volume threshold account reported on New Form 102B would be the same, and that accordingly, only one New Form 40 would be required. Similarly, a number of potential New Form 40 reporting entities are likely to own or control both DCM-related and SEF-related volume threshold accounts, but only one New Form 40 would be required.

⁴³ The Commission's estimate of 3 hours per response reflects an initial, one-time burden of 10 hours, annualized over a five-year period, plus an additional hour per year for change updates.

⁴⁴ The Commission notes that this estimate for the number of 102S reporting entities is lower than the estimate provided in the Commission's final rules for part 20. The lower estimate is based on the Commission's experience with position reports pursuant to part 20 since the rules were made final.

⁴⁵ All annualized development burden estimates are based on 5 year, straight line depreciation. The Commission's estimate of 10 hours per response reflects an initial, one-time burden of 17 hours, annualized over a five-year period, plus an additional 7 hours per year for change updates.

Based on a recent assessment of expected 102S filings, the Commission anticipates that it would receive approximately 500 102S records annually. The Commission estimates that the total annual industry burden for 102S filings would equal 5,000 hours. Using an estimated wage rate of \$69.41 per hour, annual costs for 102S filings are estimated at \$347,050. The variance in burden hours and annualized costs from existing 102S is attributable to an increase in the amount of information requested per consolidated account, a reduction in the estimated number of reporting entities, and updated wage rates.

*40S Filings:*⁴⁶ Existing § 20.5(b),⁴⁷ which requires the 40S filing, would not be altered by the Notice; as a result, the Commission estimates that a similar number of persons would be required to submit a 40S filing. Accordingly, the Commission anticipates that it would receive 40S submissions from approximately 500 filers annually. Each response is estimated to require 3 hours,⁴⁸ resulting in an estimated total annual reporting burden of 1,500 hours. Time required to update information contained in 40S filings would be de minimis on average. Using an estimated wage rate of \$69.41 per hour, annual costs are estimated at \$104,115. The variance in burden hours and annualized costs from the existing 40S filing is attributable to an increase in the amount of information requested and updated wage rates.

Proposed § 18.05

The Commission anticipates that it would make a total of 546⁴⁹ special calls a year under proposed § 18.05 and that each response would take approximately 5 hours for a total aggregate annual reporting burden of 2,730 hours. Using an estimated wage rate of \$69.41 per hour, annual reporting costs are estimated at \$189,489. The variance in burden hours and annualized costs from existing 18.05 is attributable to an increase in the estimated number of special calls and updated wage rates.

III. Recordkeeping Burden

⁴⁶ The Notice does not include provisions to revise §20.5(b); however, current §20.5(b) requires a person, after special call by the Commission, to submit a 40S filing which shall consist of the submission of Form 40. The Notice does include changes to Form 40. Accordingly, the reporting burden associated with §20.5(b) and the 40S filing is being recalculated to account for variations between current and New Form 40.

⁴⁷ 17 CFR 20.5(b).

⁴⁸ The Commission's estimate of 3 hours per response reflects an initial, one-time burden of 10 hours, annualized over a five-year period, plus an additional hour per year for change updates.

⁴⁹ Under existing 18.05 the Commission makes 12 special calls a month to approximately 45 traders resulting in a total of 540 special calls. The Commission estimates that proposed § 18.05 would result in an additional six special calls to six different traders. In total, the Commission estimates that it would receive approximately 546 responses from 51 respondents.

As discussed above, the Commission proposes to expand § 18.05⁵⁰ to also impose books and records requirements upon volume threshold account controllers and owners of volume threshold accounts reported on New Form 102B, and on reportable sub-account controllers and persons who own a reportable sub-account reported on New Form 71 (in addition to traders who hold or control reportable positions). As a result, proposed § 18.05 would likely impose a recordkeeping burden on a larger number of persons than existing § 18.05. However, any additional persons subject to proposed § 18.05 may be able to rely on books and records already kept in the ordinary course of business to meet the requirements of the proposed regulation. Accordingly, the Commission believes that proposed § 18.05 would not meaningfully increase recordkeeping burdens on persons brought under its scope.

Attachment A summarizes the burden hours associated with this information collection.

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.**

Most of the information collected under the proposed rules does not involve: (a) capital and start-up costs, or (b) operations and maintenance costs. The Commission believes that the various reporting entities already maintain equipment and mechanisms to develop the required reports and to preserve records related to their compliance with regulatory requirements as part of their customary or usual business practices. However, reporting entities responsible for 102S

⁵⁰ 17 CFR 18.05.

and 40S filings, given the reporting entities' recently established reporting responsibilities,⁵¹ may not have the requisite infrastructure in place and may incur costs to acquire needed equipment and contracted expertise to develop recordkeeping/reporting capabilities. Accordingly, the Commission estimates that proposed § 20.5(a) - 102S filings would create operating and maintenance costs of approximately \$375,000 spread across 75 reporting entities.⁵² Proposed 40S filings would likely result in \$1.5 million in capital and start-up costs and \$500,000 in operation and maintenance costs spread across 500 firms.⁵³

Attachment B summarizes the cost burden associated with this information collection.

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 estimates that software development contractors would initially expend approximately 12,770 hours developing data standards, working with potential reporting entities, and preparing CFTC systems to receive and process data. Based upon an approximate average hourly rate of \$135, the Commission estimates that initial development costs to the government would be \$1,723,950. With respect to ongoing costs, the Commission estimates that software development contractors would expend approximately 3,333 hours each year to maintain and support data collected pursuant to the proposed regulations. Based upon an approximate average hourly rate of \$135, the Commission estimates that annual costs to the government would be approximately \$449,955. In addition, in order to store and maintain data provide pursuant to the proposed regulations, the Commission estimates that it would initially expend approximately \$21,000 on the acquisition of additional servers and data storage as well as approximately \$5,000 a year on related equipment maintenance.

The Commission estimates that its staff would expend approximately 75,300 hours per year analyzing and reviewing data, or internal reports utilizing data, provided pursuant to the proposed regulations. Based upon an average salary of \$58 per hour,⁵⁴ the annualized cost to the Federal Government would be \$4,367,400.

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

⁵¹ Final rules for part 20, which provide for the filing of Forms 102S and 40S, were published July 22, 2011.

⁵² The variance in costs compared to existing Form 102S is attributable to a decrease in the estimated number of reporting entities based on the Commission's experience with position reports pursuant to part 20 after the part 20 rules were made final.

⁵³ The 40S filing cost burdens provided are identical to those provided in the part 20 supporting statement (collection 3038-0095).

⁵⁴ This figure is a composite of the salaries for economists (Grade 11-13) and attorneys (Grade 11-14) in the Commission's Division of Market Oversight. In creating the composite, Commission staff used the CFTC 2011 Washington Pay Chart (with adjusted locality pay). Also, greater weight was given to salaries for economists as they are expected to be the primary users of data provided pursuant to this collection.

Item 13 program changes are the result of proposed rules that would: expand the information presently collected on existing Forms 102 and 40; introduce a new information collection for omnibus volume threshold accounts on New Form 71; enhance 102S and 40S filing requirements; and provide for the electronic submission of Forms 102, 40, 71, 102S and 40S. In addition, item 14 adjustments are the result of a decrease in the estimated number of 102S reporting entities. Such decrease is based on the Commission's experience with position reports pursuant to part 20 after the part 20 rules were made final.

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

13. Annual Reporting and Recordkeeping Hour Burden

Trader and Account Identification Reports

OMB Collection File 3038-NEW

Applicable CFTC Regulation Section (17 CFR)⁵⁵	Associated Report	Type of Respondent	Total Number of Respondents (13(a))	Total Annual Responses (13(b))	Percentage of Responses Collected Electronically (13(b)(1))	Total Annual Hours Requested (13(c))	Current OMB Inventory (13(d))	Difference (13(e))	Total Annualized Costs
17.01(a)	New Form 102A ⁵⁶	FCMs, clearing members, and foreign brokers	250	8,225	100%	26,500	940 ⁵⁷	25,060 ⁵⁸	\$1,839,365
17.01(b)	New Form 102B	Clearing members	175	188,015 ⁵⁹	100%	18,550	0	18,550	\$1,287,556

⁵⁵ As proposed in the Notice.

⁵⁶ As discussed in the Commission's response to question twelve, for New Forms 102A, 102B, and 102S the Commission calculated the reporting and recordkeeping burden arising from the submission method with the lowest estimated industry cost.

⁵⁷ As provided in the supporting statement for collection 3038-0095.

⁵⁸ The variance in burden hours from existing Form 102 is attributable to an increase in the amount of information requested per account and the burden associated with developing an electronic submission system.

⁵⁹ For volume threshold accounts associated with DCMs, the Commission anticipates that it would receive approximately 126,000 New Form 102B records annually. For volume threshold accounts associated with SEFs, the Commission anticipates that it would receive approximately 62,015 New Form 102B records annually. Collectively, the Commission anticipates that it would receive 188,015 New Form 102B records annually.

Applicable CFTC Regulation Section (17 CFR)	Associated Report	Type of Respondent	Total Number of Respondents (13(a))	Total Annual Responses (13(b))	Percentage of Responses Collected Electroni-cally (13(b)(1))	Total Annual Hours Requested (13(c))	Current OMB Inventory (13(d))	Differ-ence (13(e))	Total Annualized Costs
17.01(c)	New Form 71	Originators of omnibus volume threshold accounts or omnibus reportable sub-accounts	710 ⁶⁰	710 ⁶¹	100%	5,680	0	5,680	\$394,249
18.04(a)	New Form 40	Special account owners and controllers	5,250	5,250	100%	15,750	1,000 ⁶²	14,750 ⁶³	\$1,093,208

⁶⁰ The Commission estimates that a number of New Form 71 respondents would complete the form more than once because they originate more than one omnibus volume threshold account or omnibus reportable sub-account. However, at this time, the Commission does not possess information that would allow it to determine the frequency of such occurrence. As a result, the Commission has described the upper limit of potential respondents by assuming that each New Form 71 response would be provided by a different respondent.

⁶¹ The Commission estimates that there would be 184 SEF-related, and 526 DCM-related, New Form 71 filings per year.

⁶² As provided in the supporting statement for collection 3038-0009.

⁶³ The variance in burden hours from existing Form 40 is attributable to an increase in the amount of information requested, and a projected increase in the number of special calls and attendant New Form 40 filings.

Applicable CFTC Regulation Section (17 CFR)	Associated Report	Type of Respondent	Total Number of Respondents (13(a))	Total Annual Responses (13(b))	Percentage of Responses Collected Electroni-cally (13(b)(1))	Total Annual Hours Requested (13(c))	Current OMB Inventory (13(d))	Differ-ence (13(e))	Total Annualized Costs
18.04(b)	New Form 40	Volume threshold account controllers, persons who own volume threshold accounts, reportable sub-account controllers, and persons who own reportable sub-accounts.	13,550	13,550 ⁶⁴	100%	40,650	0	40,650	\$2,821,517

⁶⁴ The Commission estimates that there would be 1,550 SEF-related, and 12,000 DCM-related, New Form 40 filings (arising from New Form 102B and New Form 71 filings) per year.

Applicable CFTC Regulation Section (17 CFR)	Associated Report	Type of Respondent	Total Number of Respondents (13(a))	Total Annual Responses (13(b))	Percentage of Responses Collected Electronically (13(b)(1))	Total Annual Hours Requested (13(c))	Current OMB Inventory (13(d))	Difference (13(e))	Total Annualized Costs
18.05	Books and Records	Volume threshold account controllers, persons who own volume threshold accounts, reportable sub-account controllers, persons who own reportable sub-accounts, and traders who own, hold, or control reportable futures	51	546 ⁶⁵	100% ⁶⁶	2,730	2,700 ⁶⁷	30 ⁶⁸	\$189,489

⁶⁵ Under existing 18.05 the Commission makes 12 special calls a month to approximately 45 traders resulting in a total of 540 special calls. The Commission estimates that proposed § 18.05 would result in an additional six special calls to six different traders. In total, the Commission estimates that it would receive approximately 546 responses from 51 respondents.

⁶⁶ The Commission would request that 18.05 responses be provided electronically. However, in instances where a paper submission is preferred by the respondent, the Commission may accept a non-electronic response.

⁶⁷ Current OMB inventory for collections made pursuant to existing § 18.05 is described in collection number 3038-0009. However, in the associated supporting statement, the burden arising from existing § 18.05 is aggregated with the burden arising from existing § 18.00. To determine the current OMB inventory for collections made pursuant to existing § 18.05, the Commission assessed the historical number of § 18.05 special call requests made each year. The Commission found that it made approximately 540 § 18.05 special calls each year. Multiplied by five hours per response, the approximate amount of time per response provided in the supporting statement for collection 3038-0009, the current §18.05 OMB inventory equals approximately 2,700 hours.

⁶⁸ The variance in burden hours from existing 18.05 is attributable to an increase in the estimated number of special calls.

Applicable CFTC Regulation Section (17 CFR)	Associated Report	Type of Respondent	Total Number of Respondents (13(a))	Total Annual Responses (13(b))	Percentage of Responses Collected Electronically (13(b)(1))	Total Annual Hours Requested (13(c))	Current OMB Inventory (13(d))	Difference (13(e))	Total Annualized Costs
		or option positions							
20.5(a)	102S Filing	Clearing members and swap dealers	75 ⁶⁹	500	100%	5,000	1,800 ⁷⁰	3,200 ⁷¹	\$347,050
20.5(b)	40S Filing	Persons subject to books and records requirements under existing § 20.6.	500	500	100%	1,500	165 ⁷²	1,335 ⁷³	\$104,115
		Total	20,561	217,296		116,360	6,605	109,255	\$8,076,549

⁶⁹ The Commission notes that the estimated number of 102S reporting entities is lower than the estimate provided in the supporting statement accompanying the Commission's part 20 final rules. The variance in the number of reporting entities is attributable to the Commission's experience with position reports pursuant to part 20 after the part 20 rules were made final.

⁷⁰ As provided in the supporting statement for collection 3038-0095.

⁷¹ The variance in burden hours from existing 102S is attributable to an increase in the amount of information requested per consolidated account.

⁷² As provided in the supporting statement for collection 3038-0095.

⁷³ The variance in burden hours from the existing 40S filing is attributable to an increase in the amount of information requested.

Attachment B

14. Annual Reporting and Recordkeeping Cost Burden

Trader and Account Identification Reports

OMB Collection File 3038-NEW

Applicable CFTC Regulation Section (17 CFR)	Associated Report	Type of Respondent	Total Number of Respondents	Total Annualized Capital/Start-up Costs (14(a))	Total Annual Costs (Operating & Maintenance) (14(b))	Total Annualized Cost Requested (14(c))	Current OMB Inventory (14(d))	Difference (14(e))
20.5(a)	102S Filing	Clearing members and swap dealers	75 ⁷⁴	\$0	\$375,000	\$375,000	\$1,000,000 ⁷⁵	(\$625,000) ⁷⁶
20.5(b)	40S Filing	Persons subject to books and records requirements under existing § 20.6.	500	\$1,500,000	\$500,000	\$2,000,000	\$2,000,000 ⁷⁷	\$0
		Total	575	\$1,500,000	\$1,500,000	\$2,375,000	\$3,000,000	(\$625,000)

⁷⁴ The Commission notes that the estimated number of 102S reporting entities is lower than the estimate provided in the supporting statement accompanying the Commission's part 20 final rules. The variance is attributable to the Commission's experience with position reports pursuant to part 20 after the part 20 rules were made final.

⁷⁵ As provided in the supporting statement for collection 3038-0095.

⁷⁶ The variance in costs compared to existing Form 102S is attributable to a decrease in the estimated number of reporting entities.

⁷⁷ As provided in the supporting statement for collection 3038-0095.