

**SUPPORTING STATEMENT FOR NEW AND
REVISED INFORMATION COLLECTIONS
OMB CONTROL NUMBER 3038-XXXX**

- 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.**

Summary

The Commodity Futures Trading Commission (Commission or CFTC) is proposing rules and rule amendments to implement the CFTC Reauthorization Act of 2008 (Reauthorization Act)¹ which, in pertinent part, amends the Commodity Exchange Act to significantly expand the CFTC's regulatory authority over exempt commercial markets (ECMs) that had heretofore operated largely outside the Commission's regulatory reach by creating a new regulatory category – ECMs with significant price discovery contracts (SPDCs). The Reauthorization Act charges the Commission with issuing rules to implement this expanded authority.

The Commission is proposing to amend current Commission regulation 36.3 to implement the Reauthorization Act. A copy of the notice of proposed rulemaking is attached for OMB's review. It has been submitted for publication (but not yet published) in the Federal Register. The proposed amendments to Commission regulation 36.3 would result in information collections within the meaning of the PRA. The title for this proposed collection of information is "Regulation 36.3 – Exempt Commercial Market Submission Requirements" (OMB control number 3038-NEW).

The Commission notes that the collection of information requirements of current Commission regulation 36.3 is covered by OMB control number 3038-0054 which applies to both excluded boards of trade (EBOTs) and ECMs. As a result of the Reauthorization Act, EBOTs and ECMs have to comply with additional divergent regulatory requirements. Accordingly, the Commission, through this submission, is seeking a new and separate control number for ECMs operating in compliance with the requirements of proposed regulation 36.3. Upon OMB's approval and assignment of a separate control number specifically for the collection of information requirements of amended regulation 36.3, the Commission intends to submit the necessary documentation to OMB to enable it to apply OMB control number 3038-0054 exclusively to EBOTs.

Background

¹ The CFTC Reauthorization Act of 2008 was incorporated into the Food, Conservation and Energy Act of 2008 as Title XIII of that legislation, Pub.L. No. 110-246 (June 18, 2008).

To qualify as an ECM, the transactions on a market seeking ECM status must be executed on a principal-to-principal basis between eligible commercial entities (ECEs)² on an electronic trading facility³ where multiple person have the ability to trade contracts by accepting bids and offers from multiple participants. The exempt commodities eligible to trade on an ECM include energy commodities, metals, chemicals and emission allowances.⁴

In recent years, some ECMs have taken on certain of the characteristics of fully regulated designated contract markets (DCMs) such as the New York Mercantile Exchange. Notably, several active ECMs offer a clearing component that is widely utilized by their participants to obtain an efficient and effective means to manage credit risk. Traders that participate on ECMs also have evolved over the years to include non-commercial traders such as large hedge funds, which constitute a significant portion of the overall activity and open interest in certain ECM contracts.

In response to the evolution of ECMs, Congress, through the Reauthorization Act amended section 2(h) of the Commodity Exchange Act to govern the treatment of SPDCs traded on ECMs.⁵ The Reauthorization Act significantly broadens the Commission's regulatory authority over ECMs. The Reauthorization Act requires the Commission to monitor the trading of SPDCs; requires position and accountability limits for SPDCs; authorizes the collection of large trader reports disclosing significant positions in SPDCs; and requires ECMs with SPDCs to comply with self-regulatory core principles. Consistent with Congress' directive, the Commission is proposing rules and rule amendments in Commission regulation 36.3 conforming to and implementing the amended statutory scheme.⁶

With regard to implementing section 2(h)(7) of the Commodity Exchange Act, Congress has directed that the Commission issue proposed rules no later than 180 days after the date of enactment of the Reauthorization Act and final rules no later than 270 days after the date of enactment.

² 7 U.S.C. 1a(11).

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⁴ 7 U.S.C. 1a(10).

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⁵ 7 U.S.C. 1a(14).

⁵ 7 U.S.C. 2(h)(7).

⁶ Pub. L, 110-2334, supra note 1 at § 13204.

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.

Proposed regulation 36.3 implements certain key provisions of the Reauthorization Act.⁷ Under proposed regulation 36.3(b)(1), all ECMs would be required to file certain basic information including contract terms and conditions with, and make certain demonstrations related to compliance with the terms of the ECM exemption to, the Commission. Proposed regulation 36.3(b)(2) would require ECMs to submit transactional information on a weekly basis to the Commission for certain traded contracts that are not SPDCs and would not be subject to the terms of proposed rule 16.02 (a transaction reporting requirement).

In enacting the Reauthorization Act, Congress directed the Commission to take an active role in determining whether contracts listed by ECMs could qualify as SPDCs. Accordingly, the enhanced informational requirements that would be imposed on ECMs with respect to contracts that have not been identified as SPDCs have been proposed by the Commission in order to acquire the information that it requires to discharge this newly mandated regulatory responsibility. In addition, the substantial information submission and demonstration requirements that would be imposed on ECMs with SPDCs have been proposed because ECMs with SPDCs by statute acquire certain of the self-regulatory responsibilities of fully regulated DCMs such as the Chicago Mercantile Exchange.

The submission requirements associated with proposed regulation 36.3(c)(4) are tailored to give the Commission the ability to ensure that ECMs with SPDCs, as entities with the elevated status of a registered entity under the Commodity Exchange Act, are in compliance with the statutory terms of the core principles of section 2(h)(7)(C) of the Commodity Exchange Act.

Consequently, proposed regulation 36.3, as described above, gives the Commission the ability to discharge its responsibility for monitoring for the presence of SPDCs and extending its oversight to the trading of SPDCs as mandated by the Reauthorization Act.

⁷ In certain cases, it may be more appropriate to attribute the compliance costs imposed by the proposed regulations to requirements that directly arise from the provisions of the Reauthorization Act.

- 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 requirements of proposed rule 36.3 provide for the filing of the required information electronically. When the manner of collection is subject to Commission discretion, such information will be collected electronically in every case if at all possible in accordance with long standing Commission and industry practice.

- 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 of the type that is required under the proposed amendments to regulation 36.3, if adopted, would not be duplicative of information acquired by the Commission through other means.

- 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.**

Information of the type that is required does not involve any small entities.

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

The Commission would not be able to carry out its oversight responsibilities for ECMs and SPDCs. The collection requirements are essential to the Commission's mission as mandated by the Reauthorization Act. Market activities require surveillance on a daily basis because situations such as attempted manipulation or congestion can develop rapidly. Adequate surveillance would be impossible, if certain reports were received on less than a daily basis.

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

The Commission regulates the trading of commodity futures and options contracts that impact a vast array of commodity prices vital to national and international commerce. The exercise of regulatory oversight for the purpose of conducting market surveillance, financial surveillance, and monitoring of trading for abusive conduct, by necessity, requires the collection of transactional and product related information on a daily basis.

- **Requiring respondents to submit more than an original and two copies of any document.**

Respondents are required to submit only a single copy to the Commission.

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

Section 2(h)(5)(B)(ii) of the Commodity Exchange Act specifies that ECMs retain business and operational records for 5 years and make such records available to the Commission for inspection upon request.

For the purpose of enforcing the provisions of the Act and the Commission's regulations thereunder, Commission rule 1.31 (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.**

Proposed rule 36.3 does not involve statistical surveys.

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

Proposed rule 36.3 does not involve statistical data classifications.

- **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.**

Proposed rule 36.3 does not directly involve any pledge of confidentiality regarding the collection of data (please see answer to question 10).

- **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.**

Certain provisions of proposed rule 36.3 require the submission of transactional and commercial data that may involve confidential information or proprietary trade secrets. The Commission will protect sensitive information according to the Freedom of Information Act and 17 CFR part 145, "Commission Records and Information." In addition, the Commission fully complies with section 8(a)(1) of the Commodity Exchange Act, which strictly prohibits the Commission, unless specifically authorized by the Commodity Exchange 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."

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 of proposed rulemaking is attached for OMB's review. It has been published in FR 73 75888, December 12, 2008.

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).

Opportunity for public comment is provided when regulations are initiated or amended. Contact with derivatives markets and market participants is maintained on a continuous and on an ongoing basis to resolve reporting problems and address concerns. The Commission has, and plans to continue, to solicit comments through publication of proposed rules in the Federal Register. The Commission will 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.

The Commission provides the assurances of confidentiality that are provided by the agency's Freedom of Information Act regulations, 17 CFR part 145. In addition, the Commission fully complies with section 8(a)(1) of the Commodity Exchange Act, which strictly prohibits the Commission, unless specifically authorized by the Commodity Exchange 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."

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.

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.**

The burden figures provided below are the estimates of Commission staff (also included in Attachment 1). In arriving at the estimates, Commission staff reviewed similar or identical information submission requirements currently in place for fully regulated DCMs. The estimates are based on Commission staff experience with administering DCM submission requirements authorized by the Commodity Exchange Act and required by the Commission's regulations thereunder.

In arriving at a wage rate for the hourly costs imposed, Commission staff used the Management & Professional Earnings in the Securities Industry Report, published in 2008 by the Securities Industry and Financial Markets Association (2008 Report). Unless stated otherwise, Commission staff used a composite (blended) wage rate by averaging the mean annual salaries of an Assistant/Associate General Counsel, an Assistant Compliance Director, and a Programmer (Senior), as published in the 2008 Report, and dividing that figure by 1800 annual working hours to arrive at the hourly wage rates of \$80.75. Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collections of information. It is important to note that although the hourly wage referenced above does take bonuses into account, it does not consider certain variables such as employee benefits which can increase the cost of labor.

Proposed regulation 36.3

A. Regulation 36.3(a) [ECM Notice of Operation]

Regulation 36.3(a) requires that ECMs notify the Commission of the intent to operate as an ECM in reliance of section 2(h)(3) of the Commodity Exchange Act and further provide the information and certifications required by section 2(h)(5)(A) of the Commodity Exchange Act. Section 2(h)(5)(A) of the Commodity Exchange Act requires an ECM to provide the name and address of the person who is authorized on behalf of the ECM to receive communications from the Commission, identify the ECM's clearing organization, provide the commodity categories that the ECM intends to offer, certify that

certain owners and principals of the ECM are not bad actors, certify that the facility will comply with the requirements the ECM exemption, and certify that the facility will update its filings under section 2(h)(5)(A) to account for material changes in the information submitted to the Commission.

The reporting or recordkeeping burden associated with Commission regulation 36.3(a) involves the compilation and submission of the required information to the Commission. The Commission staff estimates that each ECM would expend approximately 4 hours of professional time annually to maintain, verify, and update the notification and required certifications. The Commission staff estimates that 20 ECMs will be subject to the ECM Notice of Operation requirement resulting in an aggregate burden of 80 hours and a cost of \$6,460 annually.

B. Regulation 36.3(b)(1) [Contract Listings and Exemption Compliance]

Under proposed regulation 36.3(b)(1), each ECM would be required to provide contract descriptions and terms and conditions, the market's trading conventions, and the market's trading protocols to the Commission. Each ECM would be required to describe how it meets the statutory definition of a trading facility and demonstrate that it requires each participant to comply with all applicable laws, complies with the initial statutory requirements for the ECM exemption under section 2(h)(3) of the Commodity Exchange Act, and directs a program to monitor market participants for compliance with the transactional requirements of the ECM exemption. Proposed regulation 36.3(b)(1) would further require that each ECM provide, upon the Commission's request, such information that the Commission would deem to be helpful to determining whether a particular contract is a SPDC. Lastly, each ECM would be required to annually indicate on Form 205 whether it continues to operate under the ECM exemption and certify the accuracy of the information contained in its Notification of Operation submitted pursuant to section 2(h)(5)(A) of the Commodity Exchange Act and regulation 36.3(a).

Based on the number of contract submissions made by DCMs, the Commission estimates that ECMs collectively would list for trading 250 commodity futures and options contracts annually. Commission staff estimates that compliance with the above Contract Listings and Exemption Compliance requirements including the transmission of descriptions and terms and conditions for such products would take approximately 2 hours of professional time to prepare resulting in collective burden of 500 hours and a cost of \$40,375 annually for all ECMs.

C. Regulation 36.3(b)(2) [Weekly Transactional Reports; Quarterly Transactional Reports; Special Calls]

Proposed regulation 36.3(b)(2) would require that ECMs, with respect to contracts that are not SPDCs, to identify contracts which average 5 or more trades per day over a calendar quarter, and for such contracts, compile daily transaction-based reports that include the date of execution, the time of execution, the price of execution, the quantity executed, the total daily trading volume, the total open interest, option type, option strike prices for each qualifying contract, and such other information as may be requested by

the Commission. Proposed regulation 36.3(b)(2) would require the submission of the reports on a weekly basis. Such data is generated by ECMs in the normal course of operation. The Commission staff estimates that ECMs would submit Weekly Transactional Reports for a total of 40 contracts annually (2,080 reports). Commission staff estimates that ECMs would expend approximately 20 minutes of professional time to compile and transmit each weekly report to the Commission resulting in a burden of approximately 693 hours and a cost of \$59,960 annually.

Proposed regulation 36.3(b)(2) would give an ECM the flexibility to choose to submit weekly transaction-based reports or, in the alternative, give the Commission electronic access to its trading facility to enable the Commission's to create the weekly reports. Should an ECM select this option, Commission staff believes that such access would not result in any estimable burden on an ECM.

Proposed regulation 36.3(b)(2) also would require that ECMs, with respect to contracts that are not SPDCs, to identify contracts which average 1 or more trades per day over a calendar quarter, and for such contracts, to provide to the Commission on a quarterly basis, the terms and conditions of such contracts, the average daily trading volume, and the most recent level of open interest. As with weekly reports, such data is generated by ECMs in the normal course of operation. The Commission staff estimates that ECMs would submit Quarterly Transactional Reports for a total of 90 contracts annually (360 total reports). Commission staff estimates that ECMs would expend approximately 20 minutes of professional time to compile and transmit each quarterly report resulting in a burden of 120 hours and a cost of \$9,690 annually.

Furthermore, proposed regulation 36.3(b)(2) would require ECMs to maintain an inventory of all fraud or manipulation based complaints and submit a copy of such complaints to the Commission within 3 or 30 days depending on the specific facts of the complaints. ECMs should record and retain an inventory of complaints in the normal course of operation. Commission staff is unable to estimate the hourly burden associated with the routine transmittal of such reports to the Commission. However, Commission staff would presume that such transmittal requirements should not result in any materially measurable burden on ECMs.

Lastly, proposed regulation 36.3(b)(2) addresses the Commission's authority to require the submission of data upon special call under section 2(h)(5)(B)(iii) of the Commodity Exchange Act. Pursuant to that section of the Commodity Exchange Act, the Commission has the authority to issue special calls in order to enforce certain provisions of the Commodity Exchange Act including the anti-fraud and anti-manipulation provisions. In addition, the Commission is authorized to issue special calls to ECMs to facilitate its determination as to whether certain contracts are SPDCs, to evaluate a systemic market event, or to obtain information requested by another Federal financial regulator. Commission staff estimates that a total of 15 special calls would be issued to ECMs annually under section 2(h)(5)(B)(iii) of the Commodity Exchange Act. Each ECM that has been issued a special call would expend approximately 5 hours of professional time to respond to the call resulting in a burden of 75 hours and a cost of \$6,056 annually.

D. Proposed regulation 36.3(c)(2) [SPDC Notifications]

Proposed regulation 36.3(c)(2) establishes certain requirements for ECMs for notifying the Commission of possible SPDCs that may be listed by the ECM. More specifically, an ECM's obligation to notify the Commission applies to contracts that average 5 trades or more per day over the most recent calendar quarter, and is triggered by either the ECM's sale of contract price data or by a contract's daily settlement price being within 2.5 percent of the contemporaneously determined closing, settlement or daily price of another contract 95 percent or more of the days in the most recent quarter. Such notifications would be accompanied by supporting details. Commission staff estimates that cost of monitoring for the triggering conditions is nominal. Commission staff estimates that collectively 10 contracts would be the subject of the SPDC Notification requirement annually. Each ECM with a qualifying contract would expend approximately 1 hour of professional time to compile and transmit such data to the Commission at an aggregate burden of 10 hours and a cost of \$807.75 annually

E. Proposed regulation 36.3(c)(4) [ECM SPDC Filings; Certified Filings]

An ECM with a SPDC, with respect to such a contract, has substantial regulatory responsibilities including the obligation to comply with the core principals of section 2(h)(7)(C) of the Commodity Exchange Act and certify the compliance of SPDC contract terms and conditions and exchange rules with the core principals, other applicable provisions of the Commodity Exchange Act, and the Commission regulations thereunder. In order for the Commission to be able to evaluate an ECM's compliance with the statutory and regulatory provisions applicable to SPDCs and ECM's listing SPDCs, Commission regulation 36.3(c)(4) would require ECMs with SPDCs to submit a substantial amount of information and documentation to the Commission including the market's rules, description of financial standards for members or participants, description of the market's trading algorithm, legal status documents, and description of the governance structure of the market. As proposed, such information collectively would be filed only once and upon the market's listing of a SPDC (accordingly, these costs have been characterized as start-up costs are covered in the Commission's response to question 13). However, subsequent exchange rule changes, as with initial SPDC contract terms and conditions and amendments thereto, would be required to be certified on an ongoing basis.

Commission staff estimates that the Commission could receive up to 50 Certified Filings annually from each of an estimated 3 ECMs that could list one or more SPDCs within the next 5 years (150 certified filings annually). For each SPDC related Certified Filing, an ECMs would expend, in accordance with the procedural and submission requirements of Commission regulation 40.6, approximately 30 minutes resulting in an aggregate burden of 75 hours and a cost of \$6,056.25 annually.

F. Proposed regulation 36.3(c)(6) [Core Principle Demonstrations]

Proposed regulation 36.3(c)(6) requires an ECM listing a SPDC, upon the Commission's request, to file a written demonstration that the ECM is in compliance with the core

principles of section 2(h)(7)(C) of the Commodity Exchange Act. Commission staff estimates that such Core Principle Demonstrations of compliance could require up to 20 hours of response time. Commission staff anticipates issuing 2 requests annually resulting in an aggregate burden of 40 hours and a cost of \$3,230 annually.

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.**

Commission regulation 36.3(c)(4) would require ECMs with SPDCs to submit a substantial amount of information and documentation to the Commission including the market's rules, description of financial standards for members or participants, description of the market's trading algorithm, legal status documents, and description of the governance structure of the market. As proposed, such information collectively would be filed only once and upon the market's listing of a SPDC.

Commission staff estimates that 3 new ECMs will list at least 1 SPDC annually for within the next 5 years. Commission staff estimates that each new ECM listing its initial SPDC will expend approximately 200 hours of professional time providing ECM SPDC Filings that are required under regulation 36.3(c)(4) for an aggregate burden of 600 hours. Commission staff estimates that each such reporting market will operate for a period of 10 years. Annualized over that period, the aggregate annual hours expended are 60 hours at cost of \$4,845 (using an hourly wage rate of \$80.75).

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 a mix of approximately 25 Attorney-Advisors and Industry Economists will expend approximately 8 hours per day over 250 trading days to analyze the information provided by ECMs, to monitor for SPDCs, to assess compliance with any applicable core principles, and to conduct market, financial and trade practice surveillance related activities for a total of 45,500 hours expended. At an average salary rate of \$55 per hour for a full-time employee, the Commission estimates that the cost to the government will be \$2,750,000 annually.

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 because this statement is provided in support of a request for a new OMB control number.

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.

ATTACHMENT 1

Regulation 36.3 – Exempt Commercial Market Submission Requirements (Question 12)

a	b	c	d	e ⁸	f	g ⁹
Type of Respondent	Estimated Number of Respondents	Report or Record	Average Reports Annually by Each Respondent	Total Annual Responses	Estimated Number of Hours Per Response	Annual Burden in Fiscal Year
Exempt Commercial Markets	20	ECM Notice of Operation (R. 36.3(a))	1	20	4	80
Exempt Commercial Markets	20	Contract Listing and Exemption Compliance (R. 36.3(b)(1))	12.5	250	2	500
Exempt Commercial Markets	20	Weekly Transaction Reports (R. 36.3(b)(2))	104	2080	0.333	693
Exempt Commercial Markets	20	Quarterly Transaction Reports (R. 36.3(b)(2))	18	360	0.333	120
Exempt Commercial Markets	15	Special Calls (R. 36.3(b)(2))	1	15	5	75
Exempt Commercial Markets	20	SPDC Notifications (R. 36.3(c)(2))	.5	10	1	10
Exempt Commercial Markets	3	Certified Filings (R. 36.3(c)(4))	50	150	.5	75
Exempt Commercial Markets	2	Core Principle Demonstrations (R. 36.3(c)(6))	1	2	20	40
Totals	20 Separate Entities			2,887		1,593

ATTACHMENT 2

⁸ Column b times column d.

⁹ Column e times column f.

**Regulation 36.3 – Exempt Commercial Market Submission Requirements
(Question 13)**

a	b	c	d	e ¹⁰	f	g ¹¹
Type of Respondent	Estimated Number of Respondents	Report or Record	Average Reports Annually by Each Respondent	Total Annual Responses	Estimated Number of Hours Per Response-annualized	Annual Burden in Fiscal Year
Exempt Commercial Markets	3	ECM SPDC Filings (R. 36.3(c)(4))	1	1	20	60

¹⁰ Column b times column d.

¹¹ Column e times column f.