

**SUPPORTING STATEMENT FOR NEW AND
REVISED INFORMATION COLLECTIONS
OMB CONTROL NUMBER 3038-0012**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Section 4g of the Commodity Exchange Act requires contract markets to make public the daily volume of trading on each type of contract and such other information as the Commission deems necessary in the public interest and prescribes by rule, order or regulation. U.S.C. §6g(5). The Commission has determined that in addition to volume of trading, it is in the public interest and necessary for market surveillance that exchanges publish the following market information:

1. price information;
2. open interest;
3. exchanges of futures for non-futures;
4. delivery notices issued and stopped; and
5. delta factors
6. block trade volume

- 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 information is used by the trading public, futures industry researchers, and the Commission to analyze the commodity futures and option marketplace. The information is received from each exchange on a daily basis in conjunction with other data collected by the Commission to determine the potential for market disturbances and distortions. Commission market analysts and researchers use this data on a frequent basis in contract market reviews and research projects. In addition, the Commission routinely makes its verified data available to the public.

- 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 data is submitted electronically through links to the Commission's information systems.

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

The Commission's reporting rules are partially duplicative of the reporting requirements of the regulated markets. It must be noted that the Commission, and the regulated markets, each have separate statutory mandates to establish and operate comprehensive surveillance programs. Although partially duplicative of the efforts of the regulated markets, the Commission's surveillance programs, as instituted pursuant to the reporting rules, permits the Commission, among other things, to independently set reporting requirements, and surveil the activities of traders across different markets on a daily basis. In view of this, the Commission has determined to maintain an independent reporting framework.

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 information collection does not involve small organizations.

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 these markets. The collection requirements are essential to the Commission's mission as mandated by the Commodity Exchange Act. Market activities require surveillance on a daily basis because situations such as attempted manipulations or congestion can develop rapidly. Adequate surveillance would be impossible if position 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.**

In order to adequately conduct market surveillance, our market and large trader reporting rules collect information on a daily basis, and when necessary, upon special call (upon the request of the Commission). 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 position 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.**

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.

The current and proposed reporting rules do not involve statistical surveys.

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

The current and proposed reporting rules do 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.**

The current and proposed reporting rules do 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.**

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 submitted for publication (but not yet published) in the Federal Register.

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 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."

- 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.**

The data collection requirements relating to market data contain no sensitive questions as that term is used in item 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.**

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). For the cost calculations, as noted below, Commission staff used a composite (blended) wage rate by averaging the mean annual salaries of a Compliance Manager and a Programmer as published in the 2008 Report, and divided that figure by 1800 annual working hours to arrive at the hourly wage rate of \$51.

Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collection 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.

The total information collection burden is approximately 1,875 hours. The variance in burden hours from the prior recorded Annual Burden in Fiscal Year is attributable mainly to additional futures exchanges that have come into existence. The total annualized cost equates to \$95,625. This differs from the prior recorded total cost due to the additional exchanges and an upward adjustment in wage rates.

- 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.**

There are no applicable capital, start up, maintenance, or purchase of service cost component.

It is important to note that the information collected under the reporting rules are basic transaction records that any exchange would create as a matter of sound business practices in the normal course of business operations and in response to requirements imposed by non-governmental financial self-regulatory bodies. Because these records would be generated in any event, independently of any regulatory requirements, we estimate that the reporting rules impose no additional material costs on reporting markets that relate to recordkeeping and retention.

- 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 the equivalent of a mix of approximately 20 Surveillance analysts and IT support staff will expend approximately 1 hour per day over 250 trading days to collect and analyze the information submitted. 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 \$275,000 annually.

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

The adjustments, as mentioned above, are due to additional exchanges and increased wage rates. In addition, due to changes in organization structure, improved data analytic tools, and refocused data analysis priorities, Commission resources devoted to this data stream have decreased resulting in lower internal costs.

- 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.**

There are no exceptions to the certification statement..

ATTACHMENT 1

Reporting Requirements for Options and Futures

Estimated Annual Reporting Burden					
17 CFR Section	Annual Number of Respondents	Frequency of Response	Total Annual Responses	Hours per Response	Total Hours
16.01	15	Daily	3750	0.5	1875