

SUPPORTING STATEMENT FOR NEW AND REVISED INFORMATION COLLECTIONS
Market Surveys

OMB CONTROL NUMBER 3038-0017

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.

Sections 8(a)(1) and (2) of the Commodity Exchange Act (Act) provide that, for the efficient execution of the provisions of the Act and in order to inform Congress, the Commodity Futures Trading Commission (Commission) may make investigations concerning markets and publish the results of any such investigation including any general statistical information gathered as it deems of interest to the public. In certain instances, in response to abrupt and substantial changes in market prices, congressional inquiry, or other reasons, the Commission may conduct full market investigations requiring that all persons holding futures positions on the date in question in a specific market be identified. The Commission issues its special call for information pursuant to Rule 21.02.

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.

Historically, rule 21.02 has been used by Division of Market Oversight surveillance analysts to collect information to fulfill their market surveillance function. Although currently no circumstances have required us to implement 21.02 in the recent past, this provision is still integral to DMO's ability to effectively monitor the markets and request pertinent data when necessary. Some unique attributes of Rule 21.02 include allowing the Commission to collect data directly from introducing brokers, obtaining classification of commodity futures and options contracts as speculative or spreading or hedging, and calling for data on accounts holding less than reportable level amounts. In addition, this provision can help DMO provide a basis for reports to Congress and can also be used by Commission economists for research projects.

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.

Part 21 of the Commission's regulations does not require machine-readable information adhering to a specific record layout. This matches current industry and Commission practice for special calls of data. Generally most, if not all, firms are able to provide the data in electronic format. However, accommodations can be made to accept manual submissions.

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.

No other organization collects these data. The Commission obtains similar information through its large trader reporting system, but for only about 10 percent of the accounts which would be reported through this special call. Moreover, since identification information required on the special call is more detailed than that routinely collected, particularly with respect to occupation information, and, because small (*i.e.*, nonreportable) positions must be included on the call, information routinely collected through the daily reporting system is not sufficient for market survey purposes.

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

This information collection does not involve any 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.

Special calls are conducted only on an as needed basis, as determined by the Commission. In general, this has been done in response to a request by Congress for a detailed investigation of a particular market or for a special Commission market surveillance project. In any event, no more than one special call a year is expected to be conducted by the Commission. Considerations of the special call cost and the effect on the agency's programs of not conducting the special call are made prior to the initiation of each call. There are no obstacles for reducing burden.

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;

No such circumstances

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

No such circumstances

- 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 in their original form (for paper records) or native file format (for electronic records) for a period of five years from the date thereof and shall be readily accessible during the first 2 years of the 5-year period". "All such books and records shall be open to inspection by any representative of the Commission, or the United States Department of Justice."

- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;

The current 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 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; or

The current 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 C.F.R. 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

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.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years—even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Opportunity for public comment is provided when regulations are initiated or amended. Contact with derivatives markets and market participants are maintained on an ongoing basis to resolve reporting problems and address concerns. Notice of intent to renew this collection was published in the *Federal Register* on May 31, 2016, (81 FR 34314). No comments have been received in response to the notice.

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 this requirement contain no sensitive questions as that term is used in this paragraph.

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.

Approximately 400 members of reporting markets, FCMs, introducing brokers, and foreign brokers will receive the initial abbreviated call for information. The majority of potential respondents either own their own computing infrastructure or use independent accounting services with automated data processing capabilities. We estimate that, on average, a maximum of 30 minutes would be necessary to respond to the initial call. Although burden hours for the follow up call will depend on the particular sampling rate, we do not expect to be asking for follow up information on more than 1,000 accounts. This represents 10 percent of an expected maximum number of 10,000 accounts for any one special call. Providing followup information should take no longer than 30 minutes per account. Using the above estimates, on average, we would expect a reporting burden of no more than 700 hours per special call. This may range from zero for respondents who do not carry accounts in commodities specified in the call to as many as 50 hours for FCMs with a large number of customer accounts.

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| Estimated number of respondents | 400 |
| Reports annually by each respondent | 1 |
| Total annual responses | 400 |
| Estimated number of hours per response | 1.75 |
| Annual burden in fiscal year | 700 |

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

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

In arriving at a wage rate for the hourly costs imposed, Commission staff used the Management & Professional Earnings in the Securities Industry Report, published in 2013 by the Securities Industry and Financial Markets Association (2013 Report). 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 2013 Report, and divided that figure by 1800 annual working hours to arrive at an hourly wage rate of \$55. Using this wage rate, estimated costs to the respondents total \$38,500.

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.

Existing equipment and personnel are used to tabulate results from this information collection. Since equipment, space, etc., are fixed costs (they exist whether or not a call for information is issued), no dollar figure is included here. The Commission estimates that staff would expend 400 hours in the collection, analysis, and publication of the data. At an average salary rate of \$55 per hour for a full time employee, the Commission estimates that the cost to the government would be \$22,000.

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

No change was made to the estimated burden hours in Item 13. However, a reevaluation of industry wage rates, using the 2013 Management & Professional Earnings in the Securities Industry Report has led to an increase in the burden dollar amount.

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.

The Commission generally allows 30 days after the call date for submission of population data in its abbreviated call procedures. Within 60 days of receipt of the majority of this data, a subsequent call for information will be made for additional data on sample accounts with another 30-day response requirement. Tabulation and analysis of the data is expected within 90 to 120 days, depending on the degree of data problems incurred. Within one year of the call date, the special call data is usually published.

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 A

Reporting Burden

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| 1. Regulation(s) | 2. Estimated Number of Respondents | 3. Estimated Number of Reports by Each Respondent | 4. Estimated Average Number of Burden Hours per Response | 5. Annual Number of Burden Hours per Respondent (3 x 4) | 6. Estimated Average Burden Hour Cost ¹ | 7. Total Average Hour Burden Cost Per Respondent (5 x 6) | 8. Total Annual Responses (2 x 3) | 9. Total Annual Number of Burden Hours (2 x 5) | 10. Total Annual Burden Hour Cost of All Responses (2 x 7) |
|---------------------|---|--|--|---|---|--|---|---|---|
| 21.02 | 400 | 1 | 1.75 | 1.75 | 55.00 | 96.25 | 400 | 700 | 38,500 |

¹ 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 [2013] by the Securities Industry and Financial Markets Associations (Report). The wage rate used the median salary of a Programmer and Compliance Manager as published in the 2013 Report and divided that figure by 2000 annual working hours to arrive at the hourly rate of \$55.