

Supporting Statement
Margin and Capital Requirements for Covered Swap Entities
OMB Control No. 3064-0204

A. Justification.

1. Circumstances that make the collection necessary:

This Information Collection Request (ICR) is being filed in connection with an interim final rule required by the Terrorism Risk Insurance Program Reauthorization Act of 2015 (TRIPRA).¹ Title III of TRIPRA, the “Business Risk Mitigation and Price Stabilization Act of 2015,” amends the statutory provisions added by the Dodd-Frank Act relating to margin requirements for non-cleared swaps and non-cleared security-based swaps. Section 302 of Title III amends sections 731 and 764 of the Dodd-Frank Act to provide that the initial and variation margin requirements do not apply to certain transactions with specified counterparties that qualify for an exemption or exception from clearing. Non-cleared swaps and non-cleared security-based swaps that are exempt under section 302 of TRIPRA will not be subject to the Agencies’² rules implementing margin requirements.³ In section 303 of TRIPRA, Congress required that the Agencies implement the provisions of Title III by promulgating an interim final rule and seeking public comment on the interim final rule.

The reporting requirements found in § 349.1(d) refer to other statutory provisions that set forth conditions for an exemption from clearing. For example, TRIPRA provides that the initial and variation margin requirements of the joint final rule shall not apply to a non-cleared swap or non-cleared security-based swap for which a counterparty qualifies for an exception under section 2(h)(7)(A) of the Commodity Exchange Act or section 3C(g)(1) of the Securities Exchange Act, which includes certain reporting requirements established by the applicable Commission.

The same notification requirements required for an exemption from the SEC and CFTC clearing requirements will be required for an exception or exemption pursuant to § 349.1(d) from the initial and variation margin requirements for non-cleared swaps established by the Agencies under sections 731 and 764 of the Dodd-Frank Act. Because this interim final rule serves to implement exemptions and exceptions by reference to existing statutory provisions, including the relevant existing reporting requirements, § 349.1(d) imposes new reporting requirements.

1 [?] Pub. L. 114-1, 129 Stat. 3 (2015).

2 [?] The Agencies are the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Farm Credit Administration, and the Federal Housing Finance Agency.

3 [?] This interim final rule is a companion rule to a final rule adopted to implement section 731 and 764 of the Dodd-Frank Act.

2. Use of the information:

Covered swap entities subject to the Agencies margin requirements will use information reported by a commercial end user or small financial institution to determine that the Agencies' margin requirements do not apply to certain non-cleared swaps with that entity.

3. Consideration of the use of improved information technology:

Any information technology may be used that permits review by FDIC examiners.

4. Efforts to identify duplication:

The information required is unique. It is not duplicated elsewhere.

5. Methods used to minimize burden if the collection has an impact on a substantial number of small entities:

This collection does not have an impact on a substantial number of small entities. While small entities will be required to report information to covered swap entities in order for certain swaps to be exempt or excepted from the Agencies' margin requirements, such entities are already reporting such information in order to exempt or except clearable swaps from other regulatory requirements that such clearable swaps be cleared through a clearinghouse. Thus, small entities are expected to already have in place procedures and practices for reporting the information needed to exempt or except their non-cleared swaps from the Agencies' margin requirements.

6. Consequences to the Federal program if the collection were conducted less frequently:

Conducting the collection less frequently would present safety and soundness risks.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:

None. The information collection is conducted in accordance with OMB guidelines in 5 CFR part 1320.

8. Efforts to consult with persons outside the agency:

The Agencies published the information collection requirements contained in the interim final rule for 60 days of comment.⁴ No PRA comments were received.

9. Payment to respondents:

⁴ 80 FR 74916 (November 30, 2015).

None.

10. Any assurance of confidentiality:

The information will be kept private to the extent permitted by law.

11. Justification for questions of a sensitive nature:

There are no questions of a sensitive nature. No personally identifiable information is collected.

12. Burden estimate:

1 Respondent⁵ x 1,000 Burden Hours per Respondent = 1,000 Burden Hours.

1,000 Hours x \$101 = \$101,000.

13. Estimate of annualized costs to respondents (excluding cost of hour burden in Item #12):

None.

14. Estimate of annualized costs to the government:

None.

15. Changes in burden:

The increase in burden is due to the fact that this is a new collection.

16. Information regarding collections whose results are planned to be published for statistical use:

No publication for statistical use is contemplated.

17. Display of expiration date:

Not applicable.

18. Exceptions to certification statement:

⁵ The FDIC had initially estimated that three of its institutions might register as a swap dealer, major swap participant, security-based swap dealer or major security-based swap participant but no state non-member bank nor any state savings association has so registered, so FDIC is reducing its estimate to one as a placeholder for its information collection .

Not applicable.

B. Collections of Information Employing Statistical Methods.

Not applicable.