

**SUPPORTING STATEMENT FOR NEW AND  
REVISED INFORMATION COLLECTIONS**

**OMB CONTROL NUMBER 3038-0024**

**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.**

Section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), P.L. 111-023, 124 stat. 1376, amended the Commodity Exchange Act (“CEA”), 7 U.S.C. §§ 1 *et seq.*, to add, as section 4s(e) thereof, provisions concerning the setting of initial and variation margin requirements for swap dealers (“SDs”) and major swap participants (“MSPs”). The Commission is proposing the margin rule to implement those requirements.

Specifically, the Proposed Regulation 23.154(b) would require SDs and MSPs that are using a model to compute initial margin requirements to submit the model for review and approval by the Commission. The SDs and MSPs must also notify the Commission upon making certain changes to the model, including modifying material modeling assumptions and extending the model to additional product types. The SDs and MSPs must also meet various other requirements, including validating and demonstrating the reasonableness of the process for modeling and measuring hedging benefits.

Proposed Regulation 23.159(d) would allow an SD or MSP to request the Commission to make a determination that the SD or MSP could comply with the margin requirements in a foreign jurisdiction rather than the margin rules promulgated by the Commission (a “substituted compliance determination”). A request for substituted compliance determination must include a submission to the Commission describing a variety of factors, including a description of the scope and objectives of the foreign regulatory framework for non-cleared swaps; the specific provisions of the foreign regulatory framework for non-cleared swaps; the supervisory compliance program and enforcement authority exercised by the foreign regulatory authority or authorities in such system to support its oversight of the application of the non-cleared swap regulatory framework; and any other descriptions and documentation that the Commission determine are appropriate.

The collections of information that are proposed by this rulemaking are necessary to implement Section 4s(e) of the CEA, which expressly requires the Commission to adopt rules governing margin requirements for SDs and MSPs. The information required for the prior written approval of the margin model is needed to demonstrate that the model satisfied all of the requirements of proposed Regulation 23.154(b). Also, as noted above, the information and documentation requirements of proposed Regulation 23.159(d) would be necessary for the

Commission to consider whether the requirements of the foreign rules are comparable to the applicable requirements of the Commission's rules and are appropriate for the safe and sound operation of the CSE taking into account the risks associated with the swaps.

**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 margin information will be submitted to the Commission by SDs and MSPs that wish to use models to compute initial margin requirements for uncleared swap transactions in lieu of standard table-based margin requirements. The information may be submitted electronically or by hard copy to the Commission. The collection of information will be used by the Commission to evaluate whether the SDs and MSPs initial margin models satisfy the regulatory standards and other requirements established by the regulations. The initial margin requirements for models are designed to require SDs and MSPs to collect sufficient amounts of collateral from counterparties to protect against the possible default of the counterparty. The soundness and adequacy of margin models promote the financial integrity of the SDs and MSPs and the swaps market.

The substituted compliance documentation will be submitted to the Commission by SDs and MSPs that wish to seek a determination by the Commission. The Commission will use this information to determine whether such entities operate in a foreign jurisdiction that has comparable regulatory requirements to the Commission for initial margin requirements for uncleared swap transactions. The SDs and MSPs may submit the substituted compliance documentation electronically or by hard copy. The substituted compliance documentation will provide an analysis and comparison of the foreign jurisdictions regulations to the Commission's regulations for the purpose of providing the Commission with information necessary to make a determination that the Commission's regulatory objectives would not be compromised if the Commission authorized the SDs and MSPs to satisfy its regulatory obligations under the Commission's regulations by complying with the rules and regulations of the foreign jurisdiction.

**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 collection of information may be reported electronically. The Commission would permit SDs and MSPs to submit initial margin model information and substituted compliance information to the Commission electronically.

**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 collection of information includes the submission of information from new registrants, the SDs and MSPs that are engaged in activities that implicate new regulatory requirements. These new registrants would not have previously submitted such information to the Commission. Therefore, the required information is not already collected by the Commission for any other purpose, collected by any other agency, or available for public disclosure through any other source.

**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 collections of information will not have a significant impact on small entities. The Commission notes that only sophisticated parties, such as SDs and MSPs, as well as eligible contract participants (who must meet certain net worth requirements), may participate in uncleared swaps. The Commission has determined that those participants are not 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.**

An SD or MSP is required to submit a proposed initial margin model to the Commission for approval prior to the use of the model. Thereafter, the SD or MSP is required to submit any material changes to the initial margin models to the Commission, including changes to the asset types that will be margined using the initial margin model. If the Commission did not receive information regarding proposed modifications to the models, the Commission could not assess the SD's or MSP's continued compliance with the margin requirements.

An SD or MSP is required to submit documentation in support of a substituted compliance determination only once.

**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;**

Not applicable. Currently the margin rule requires the SDs and MSPs to document and submit to the Commission margin models prior to their use, and to notify the Commission upon making certain modifications to margin models, which the Commission does not expect to occur more often than quarterly. In addition, an SD or MSP is required to submit documentation in support of a substituted compliance determination only once.

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

Not applicable.

- **requiring respondents to submit more than an original and two copies of any document;**

Respondents are not required to submit more than an original and two copies of any documents to the Commission or third parties.

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

Not applicable.

- **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;**

Not applicable.

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

Not applicable.

- **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 collection does not involve any 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.**

The Commission has procedures to protect the confidentiality of an applicant's or registrant's data. These are set forth in the Commission's regulations at parts 145 and 147 of title 17 of the Code of Federal Regulations.

**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.**

In the proposing Federal Register release, the Commission seeks public comment on any aspect of the proposed collection of information.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

Not applicable. The Commission has neither considered nor made any payment or gift to a respondent.

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

The Commission does not provide respondents with an assurance of confidentiality beyond that provided by applicable law. 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.” Moreover, the Commission complies with the Freedom of Information Act regulations it has established, set forth at 17 CFR Part 145, and its Government in the Sunshine Act regulations, set forth at 17 CFR Part 147.

**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 regulations covered by this collection do not 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.**

See Attachment A. The Commission estimates that the collection of information required by the regulations will impose a burden of 250 annual hours on an estimated 60 entities.

**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.**

It is expected that SDs and MSPs will utilize existing software, information technology and systems. Thus, the Commission believes that there will not be additional capital/startup costs or operational/maintenance costs incurred by SDs and MSPs to report the information required by the regulations to the Commission.

**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.**

It is not anticipated that the final regulations will impose any additional costs to the Federal Government.

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

The regulations associated with Collection 3038-0024 are designed to enhance the safety and soundness of the markets which the Commission oversees and to enable the Commission to evaluate the soundness of the participants in those markets. Section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), P.L. 111-023, 124 stat. 1376, amended the Commodity Exchange Act ("CEA"), 7 U.S.C. §§ 1 et seq., to add, as section 4s(e) thereof, provisions concerning the setting of initial and variation margin requirements for swap dealers ("SDs") and major swap participants ("MSPs"). The Commission is proposing the margin rule to implement section 4s of the CEA to require SDs and MSPs that are using a model to compute initial margin requirements to submit the model for review and approval by the Commission. Also, the proposal would allow an SD or MSP to request the Commission to make a determination that the SD or MSP could comply with the margin requirements in a foreign jurisdiction rather than the margin rules promulgated by the Commission. This collection of information will add additional burdens on an estimated 60 entities for a total of 15,000 hours annually. This collection of information will add additional burdens on an estimated 60 entities for a total of 15,000 hours annually.

**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.**

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.**

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.**

Does not apply.

**Attachment A**

**Part 23 – Reporting of Information Relating to Initial Margin Models for Uncleared Swaps  
And Documentation for Substituted Compliance Determinations**

**OMB Collection File 3038-0024**

Report	Estimated Number of Respondents	Reports by Each Respondent	Total Annual Responses	Estimated Average Number of Hours per Response	Estimated Total Annual Number of Hours	Cost per response	Total Annual cost of all responses
23.158	60	1	60	240	14,400	\$70 per hour for a total of \$16,800 <sup>1</sup>	\$1,008,000
23.159	60	1	60	10	600	\$800 <sup>2</sup>	\$48,000
TOTAL		2	120	250	15,000	\$17,600	\$1,056,000

---

<sup>1</sup> Average salary for a risk management specialist is \$144,000 per year according to the Sifma Report on Management and Professional Earnings in the Securities Industry. Divide \$144,000 per year by 80 hours per 2 weeks for 26 pay periods yields \$70 per hour. Multiply \$70 per hour by 240 hours to come up with \$16,800.

<sup>2</sup> Average salary for an attorney is \$166,487 per year according to the same report. Divide \$166,487 per year by 80 hours per 2 weeks for 26 pay periods yields \$80 per hour. Multiply \$80 per hour by 10 hours yields \$800 per respondent.