

SUPPORTING STATEMENT FOR INFORMATION COLLECTION RENEWAL

Real-Time Public Reporting and Block Trade

OMB CONTROL NUMBER 3038-0070

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.

The Commodity Futures Trading Commission (the Commission) is seeking to renew OMB Control Number 3038-0070 (Real-Time Public Reporting and Block Trade).

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the Commodity Exchange Act (“CEA”)¹ to establish a comprehensive new regulatory framework for swaps and security-based swaps. Section 727 of the Dodd-Frank Act specifically required the Commission to establish certain standards for the real-time public reporting of swap transaction data. Part 43 of the Commission’s regulations imposes certain reporting, public dissemination, and timestamping requirements on the following entities that vary depending on the method of execution, underlying asset, and the counterparties to the swap: registered swap execution facilities (“SEFs”); designated contract markets (“DCMs”); registered swap data repositories (“SDRs”); major swap participants (“MSPs”); swap dealers (“SDs”); and non-SDs/non-MSPs. Without the frequency of reporting set forth in part 43, the Commission would not be able to adequately assess the swap markets and, more importantly, would fail to achieve the frequency of reporting and promotion of increased price discovery in the swaps market which are mandated by the Dodd-Frank Act. This request for renewal maintains the current information collections but revises the related burden hour and cost estimates based on the Commission’s observations of SDR operations and feedback from market participants since the submission of the original 3038-0070 information collection request.²

¹ 7 U.S.C. § 1 *et seq.*

² The Commission notes that rather than the initial estimate of 40 SEFs, there currently are 25 SEFs either registered with the Commission or with registrations pending. *See* 77 FR 1182, 1229 (Jan. 9, 2012) The Commission notes that rather than the initial estimate of 18 DCMs, there currently are 15 DCMs registered with the Commission. *Id.* The Commission notes that rather than the initial estimate of 15 SDRs, there currently are 4 SDRs registered with the Commission. *Id.* at 1230. Based on the experience gained by the Commission with regard to SDRs, the Commission estimates that rather than the initial estimate of 750 reporting parties who are not swap dealers (“SDs”) or major swap participants (“MSPs”), and who contract with third parties to satisfy their reporting obligations, there are 496 such reporting parties. *Id.* The Commission estimates that rather than the initial estimate of 250 reporting parties who are not swap dealers (“SDs”) or major swap participants (“MSPs”),

Estimated numbers of respondents and numbers of reporting and recordkeeping burden hours are provided in Attachment A.

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 Commission's regulations require SEFs, DCMs and reporting parties to report swap transaction and pricing data to an SDR and for SDRs to ensure the dissemination of such data to the public. The Commission does not intend to collect this data. The Commission may, however, use the real-time swap transaction and pricing data in connection with an enforcement action against a reporting party, SEF, DCM or SDR. Additionally, the data reported to the SDRs for the purposes of part 43 may be used by the CFTC, SEC, Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Farm Credit Administration and Federal Housing Finance Agency, Financial Stability Oversight Council, Securities and Exchange Commission, Department of Justice, and any other person the Commission determines to be appropriate, including foreign financial supervisors, foreign central banks, and foreign ministries as a variable in measuring systematic risk.

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 final rule contemplated the sole use of certain electronic collection protocols, such as e-mail and the Internet, for the public dissemination of real-time swap transaction and pricing data. The final rule does not include a requirement that a reporting party publish or maintain any related information or data on printed paper. Additionally, the final rule does not require reporting parties or registered entities to maintain records of real-time swap transaction and pricing data, with the exception of the requirement to maintain records of timestamps for a period of no less than five years.

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 type of information required to be reported under the Commission's regulations is not available for public disclosure through any other source. Prior to the adoption of the

and who satisfy their reporting obligations themselves, there are 207 such reporting parties. Id.

Dodd-Frank Act, the Commission did not have the authority to require the real-time public reporting of swap transaction and pricing data. There are no existing regulations that could be modified to serve a similar purpose.

5. If the collection of information involves small business or other small entities (Item 5 of OMB From 83-1), describe the methods used to minimize burden.

The Commission has established certain definitions of “small entities” to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the Regulatory Flexibility Act. None of the entities that are required to publish or accept real-time swap transaction and pricing data under this proposal include 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.

Section 727 of the Dodd-Frank Act provides that the purpose of the real-time public reporting requirement is to make swap transaction and pricing data available to the public to enhance price discovery. Without the frequency of reporting set forth in the Commission’s regulations, the general public would not receive swap transaction and pricing data (either in real-time or with a time delay), and thus, such data would not enhance price discovery as intended by the legislation.

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;

Real-time swap transaction and pricing data is not required to be reported to the Commission.

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

This does not apply.

- 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.

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

All timestamps related to a reportable swap transaction shall be maintained for a period of not less than five years following the time at which such publicly reportable swap transaction is executed.

- 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 collection does not involve a statistical survey.

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

The collection does not involve the use of any statistical data.

- 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.

Section 8(a) of the CEA provides that, “unless specifically authorized in this Act, the Commission may not publish data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.” A number of narrow exceptions are set forth in Sections 8(b) and (e) of the CEA permitting the Commission to disclose “Section 8 material” for (i) prior public disclosures, (ii) congressional, administrative and/or judicial proceedings, (iii) other federal departments and agencies, individual states and foreign futures authorities, and (iv) registered entity investigations.

Additionally, section 2(a)(13)(E)(i) of the CEA provides that the rule promulgated by the Commission shall contain provisions “to ensure such information does not identify the participants[.]” Further, section 2(a)(13)(C)(iii)

of the CEA provides “the Commission shall require real-time public reporting for such transactions, in a manner that does not disclose the business transactions and market positions of any person.” Accordingly, part 43 prohibits the disclosure of the names of the parties to a swap transaction when publicly disseminating swap transaction and pricing data in real-time. Additionally, §§ 43.4(g) and (h) provide that the notional or principal amount of a swap will be rounded and capped when publicly disseminated to ensure the anonymity of the parties is not compromised.

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.

A Federal Register Notice soliciting comments on this collection was published in the *Federal Register* on April 21, 2017 (82 FR 18742).

No substantive comments were received in response to the Commission’s request for comment.

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 SDRs and other market participants has been maintained on a continuous and ongoing basis.

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.

No such circumstances are anticipated.

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

The question is not applicable.

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 CEA, which strictly prohibits the Commission, unless specifically authorized by the CEA, 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.”

Additionally, section 2(a)(13)(E)(i) of the CEA provides that the rule promulgated by the Commission shall contain provisions “to ensure such information does not identify the participants[.]” Further, section 2(a)(13)(C)(iii) of the CEA provides “the Commission shall require real-time public reporting for such transactions, in a manner that does not disclose the business transactions and market positions of any person. Accordingly, part 43 prohibits the disclosure of the names of the parties to a swap transaction when publicly disseminating swap transaction and pricing data in real-time. Additionally, §§ 43.4(g) and (h) provides that the notional or principal amount of a swap will be rounded and capped when publicly disseminated to ensure the anonymity of the parties is not compromised.

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.

On-Going Annual Burden Hours for Market Participants

Based on the Commission's observation of market participants' compliance with part 43's requirements, the Commission is revising its annual burden hour calculations. This revised estimate is not a result of any additional information collection obligations or adjustments; rather, the Commission is revising its estimate based on the Commission's observations of market participants' operations and feedback from market participants since the submission of the original 3038-0070 information collection request.

The Commission notes that rather than the initial estimate of 40 SEFs, there currently are 25 SEFs either registered with the Commission or with registrations pending.³ The Commission notes that rather than the initial estimate of 18 DCMs, there currently are 15 DCMs registered with the Commission.⁴ The Commission notes that rather than the initial estimate of 15 SDRs, there currently are 4 SDRs registered with the Commission.⁵ Based on the experience gained by the Commission with regard to SDRs, the Commission estimates that rather than the initial estimate of 750 reporting parties who are not swap dealers ("SDs") or major swap participants ("MSPs"), and who contract with third parties to satisfy their reporting obligations, there are 496 such reporting parties.⁶ The Commission estimates that rather than the initial estimate of 250 reporting parties who are not swap dealers ("SDs") or major swap participants ("MSPs"), and who satisfy their reporting obligations themselves, there are 207 such reporting parties.⁷ As noted above, the Commission estimates that each respondent SEF would, on average, have an annual burden of 1,000 hours and notes that 23 SEFs have registered with the Commission.

³ See 77 FR at 1229.

⁴ *Id.*

⁵ See 77 FR at 1230.

⁶ *Id.*

⁷ *Id.*

Accordingly, the aggregate annual burden hour estimate for all respondent SEFs is 52,000 hours (2,080 average recurring burden hours per respondent SEF x 25 registered SEFs = 52,000 total burden hours for all registered SEFs.). The aggregate annual burden hour estimate for all respondent DCMs is 31,200 hours (2,080 average recurring burden hours per respondent DCM x 15 registered DCMs = 31,200 total burden hours for all registered DCMs.). The aggregate annual burden hour estimate for all respondent SDRs is 27,600 hours (6,900 average recurring burden hours per respondent SDR x 4 registered SDRs = 27,600 total burden hours for all registered SDRs.). The aggregate annual burden hour estimate for all respondent non SD/MSPs using third parties to fulfill their reporting obligations is 10,912 hours (22 average recurring burden hours per respondent x 496 respondents = 10,912 total burden hours for all respondents.). The aggregate annual burden hour estimate for all respondent non SD/MSPs who fulfill their reporting obligations themselves is 139,932 hours (676 average recurring burden hours per respondent x 207 respondents = 139,932 total burden hours for all respondents.).

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.

Based upon the adjusted aggregate annual burden hours detailed in Answer 12, the Commission is adjusting its aggregate annual cost for burden hours per entity as follows. The aggregate annual cost burden for SEFs is \$10,778,276.25 (original estimate of \$17,245,242 multiplied by 25/40 = 10,778,276.25). The aggregate annual cost burden for DCMs is \$6,466,965.83 (original estimate of \$7,760,359 multiplied by 15/18 = \$6,466,965.83). The aggregate annual cost burden for SDRs is \$6,201,389.33 (original estimate of \$23,255,210 multiplied by 4/15 = \$6,201,389.33). The aggregate annual cost burden for all respondent non SD/MSPs using third parties to fulfill their reporting obligations is \$1,360,032 (original estimate of \$2,056,500 multiplied by 496/750 = \$1,360,032). The aggregate annual cost burden for all respondent non SD/MSPs who fulfill their reporting obligations themselves is \$37,391,652 (original estimate of \$37,391,652 multiplied by 207/250 = \$1,360,032).

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 adjustments to the burden hours above do not impact the Commission's prior estimates regarding annualized 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 Commission is not proposing any program changes or adjustments, but the Commission is revising its burden hour estimates based on changes in the number of market participants impacted by the collection.

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.

No exceptions exist.

Attachment A

**Real-time Public Reporting under Section 727 of the Dodd-Frank Act
Estimated Annual Hour and Cost Burden of the Collection of Information**

Table 1

Est'd # of Covered Entities (a) ⁸	Est'd Avg. # of Hrs. to Report per entity (b)	Est'd Total Annual Burden Hrs. (a)x(b)	Est'd Cost for Burden Hours (Cost estimate in existing collection x (current # of covered entities/estimated # of covered entities in existing collection))
4 SDRs	6,900 ⁹	27,600	\$5,401,389.33
125 SDs/MSPs	2,080	260,000	\$28,891,383
25 SEFs	2,080	52,000	\$5,778,276.25
15 DCMs	2,080	31,200	\$3,466,965.83
207 RP non-SDs/non-MSPs	676	139,932	\$29,612,592 ¹⁰

⁸ For purposes of the Paperwork Reduction Act, the Commission estimates that there are 4 SDRs, 125 SDs and MSPs, 25 SEFs, 15 DCMs and 703 end users who would annually be subject to the reporting and recordkeeping requirements of part 43.

⁹ Registered SDRs that accept and publicly disseminate swap transaction and pricing data in real shall maintain hours of operation to receive and publicly disseminate swap transaction and pricing data at all times, twenty-four hours a day, with some leeway allowed for closing due to system maintenance.

¹⁰ This cost estimate includes the recurring costs of capturing swap transaction and pricing data, maintenance of compliance and operational support programs, and of complying with error and omission requirements and maintaining error and omission reporting systems. This estimate also includes the cost of maintaining connectivity to an SDR, which the Commission estimates to be \$100,000 per year.

496 RP non-SDs/non-MSPs who contract with a third party	22 ¹¹	10,912	\$677,536
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Estimated Total Annual Burden Hours: 521,644

¹¹ This estimate reflects the hour burdens to a non-SD/non-MSP who contracts with a third party to comply with part 43's requirements regarding reporting errors and omissions in the swap data that is publicly disseminated.

Table 2

Est'd # of Covered Entities (a)	Useful Life (year)	Capital Start up cost annualized over useful life per entity	Est'd Avg . Total Operational Cost per year per entity (\$) ¹²	Est'd Annual Total Cost per entity (\$)	Estimated aggregate annual cost (\$)
4 SDRs	6	\$50,000	\$150,000	\$200,000	\$800,000
125SDs/MSPs	6	\$50,000	\$150,000	\$200,000	\$53,891,383
25 SEFs	6	\$50,000	\$150,000	\$200,000	\$5,000,000
15 DCMs	6	\$50,000	\$150,000	\$200,000	\$3,000,000
207 RP non-SDs/non-MSPs	6	\$9,395	\$28,185	\$37,580	\$31,116.24
496 RP non-SDs/non-MSPs who contract with a third party	6	\$344	\$1,032	\$1,376	\$682,496

¹² The Estimated Average Total Operational Cost Per Year Per Entity are estimated to be 50% of the capital and start up cost.

Table 3
Recordkeeping (Timestamping)

Est'd # of Covered Entities (a)	Est'd Avg. # of Hrs. to Report per entity (b)	Est'd Total Annual Burden Hrs. (a)x(b)	Total Aggregate cost to perform recordkeeping function Cost estimate in existing collection x (current # of covered entities/estimated # of covered entities in existing collection))
4 SDRs	76	304	\$25,028
125 SDs/MSPs	30	3,750	\$328,000
25 SEFs	45	1,125	\$98,400
15 DCMs	45	675	\$59,040
30,000 Non-SDs/non-MSPs	NA	NA	NA

Estimated Total Annual Burden Hours: 5,854

Table 4

	Estimated # of Respondents Per Year (A)	Reports Annually By Each Respondent (B)	Total Annual Responses (C) (i.e., A x B)	Estimated Average Number of Hours Per Response (D)	Estimated Total Number of Hours of Annual Burden (E) (i.e., C x D)	Labor Costs per Hour (F)	Total Annual Burden Hour Costs (G) (i.e., E x F)
Amendment to 43.4(d)(4) requiring masking and public dissemination of certain other commodity	5	10,000	50,000	1 minute (.0167 hours)	833 hours	\$140.93	\$117,395

swaps							
Regulation 43.6(g)(1)(i) Swap Dealers/Major Swap Participants	125	1,000	125,000	1 minute (.0167 hours)	2,083.5 hours	\$140.93	\$293,628
Regulation 43.6(g)(1)(i) Non-Swap Dealers/Non-Major Swap Participants	1,000	5	5,000	1 minute (.0167 hours)	83.5 hours	\$140.93	\$11,768
Regulation 43.6(g)(2) Swap Dealers/Major Swap Participants	125	500	62,500	2 minutes (.0334 hours)	2,083 hours	\$140.93	\$293,557
Regulation 43.6(g)(2) Non-Swap Dealers/Non-Major Swap Participants	1,000	5	5,000	2 minutes (.0334 hours)	167 hours	\$140.93	\$23,535

Estimated Total Annual Burden Hours: 5,250

Total Burden Hours for the collection: **532,748**

Table 5¹³

	Start-up Costs
Amendment to Regulation 43.4(h) and (d)(4)	\$75,900
Regulation 43.6(g)(1)(i) SDs/MSPs and Non-SDs/MSPs	\$11.2 million
Regulation 43.6(g)(1)(ii) SEFs/DCMs	\$577,460
Regulation 43.6(g)(2) SDs/MSPs and	\$11.2 million

¹³ The Adopting Release addresses the operational and maintenance costs for Regulation 43.6(g). See 77 FR 1,232.

Non-SDs/MSPs	
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