

**SUPPORTING STATEMENT FOR THE EXTENSION OF AN
EXISTING INFORMATION COLLECTION**

Financial Resource Requirements for Derivative Clearing Organizations

OMB CONTROL NUMBER 3038-0066

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 5b(c)(2) of the Commodity Exchange Act (CEA) sets forth certain core principles with which a derivatives clearing organization (DCO) must comply in order to become registered with the Commission and to maintain such registration. One of these core principles, core principle B, sets forth the financial resource requirements applicable to DCOs. Section 5b(c)(2) also requires DCOs to comply with the regulations promulgated by the Commission pursuant to section 8a(5) of the CEA. Section 39.11 of the Commission's regulations, which implements core principle B, includes the financial resource reporting requirements that are the subject of this information collection. The information collection is necessary for, and would be used by, the Commission to evaluate a DCO's compliance with the financial resource requirements for DCOs prescribed in the CEA, including core principle B, and the Commission's regulations.

- 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.**

See response to Item 1. As noted therein, the information collected is used by Commission staff to determine whether DCOs are in compliance with the applicable financial resource requirements prescribed in the CEA and the Commission's regulations.

- 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 information is required to be filed 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 required information is not already collected by the Commission for any other purpose, nor is it collected by any other agency, nor is the information 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.**

This collection of information does not have a significant economic impact on a substantial number of 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.**

If the collection were conducted less frequently, the Commission would not be able to make an accurate assessment of the financial integrity of DCOs because the value of financial resources can fluctuate significantly over short periods of time.

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;**

The regulations require DCOs to report information to the Commission on a quarterly basis but allow the Commission to collect information at other times as necessary. This provision is designed to address the need to update valuations in circumstances where there may have been material fluctuations in market value that could impact a DCO's ability to meet its obligations as required by the regulations.

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

In order for the Commission to adequately assess whether a DCO is in compliance with core principle B and related regulations, a DCO might be required to prepare a written response to a collection of information in fewer than 30 days depending upon the exigency of the situation.

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

This question does not apply.

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

The CEA explicitly requires DCOs to retain records for more than three years. A DCO is required maintain records of all activities related to its business as a DCO in a form and manner that is acceptable to the Commission for a period of not less than five years. See 7 U.S.C. § 7a-1(2)(k).

- **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;**

This question does not apply.

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

This question does not apply.

- **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**

This question does not apply.

- **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 information submitted by respondents. 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.**

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.

A Notice of Intent to Extend Collection 3038-0066: Financial Resource Requirements for Derivatives Clearing Organizations was published in the *Federal Register* on December 5, 2017 (“Notice”). See 82 FR 57430 (Dec. 5, 2017). The Notice requested comment on the information collection prior to submission to OMB. No comments were received.

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.

As noted above, the Commission published a *Notice of Intent to Extend Collection 3038-0066: Financial Resource Requirements for Derivatives Clearing Organizations* in the *Federal Register* on December 5, 2017 (“Notice”). See 82 FR 57430 (Dec. 5, 2017). The Notice provided a 60-day period during which the public was invited to comment on the information collection and the burdens imposed by it. Therefore, 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. 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, regulation, or agency policy.**

The Commission does not provide respondents with an assurance of confidentiality except as follows: 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 business transactions or market positions of any person and trade secrets or names of customers.” 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 the Code of Federal Regulations.

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.

This question does not apply. The regulation does not request or require the provision of sensitive information, 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 OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hour burden 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. As set forth in Attachment A, the annual respondent burden for this information collection during the renewal period is estimated to be as follows:

Estimated Annual Number of Respondents: 17
Estimated Annual Number of Reports per Respondent: 4
Estimated Total Annual Number of Responses: 68
Estimated Average Number of Hours per Response: 10
Estimated Average Annual Burden Hours per Respondent: 40
Estimated Total Annual Burden Hours: 680 hours
Estimated Total Annual Burden Cost: \$31,892
Frequency of Collection: Quarterly and on occasion

Because the reporting requirements that are the subject of this information collection have not changed, the original burden hour estimate of 10 hours per quarterly report was unchanged. The burden estimates were amended, however, to account for an increase in the number of respondents (from 14 to 17). Burden costs were calculated using salary data for the applicable profession obtained from the *SIFMA Report on Management and Professional Earnings in the Securities Industry* (the “SIFMA Report”).

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 factor 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.**

This information collection does not involve any new start-up or operations and maintenance costs.

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 estimated annual cost of this information collection to the government per respondent is \$561.28. This reflects the cost of staff (at an average compensation of \$70.16 per hour)¹ needed to analyze each report submitted by a respondent (a total of 4 reports per year) for two hours per report (a total of 8 hours of review time per year per respondent).

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

See response to Item 12.

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.**

This question does not apply.

¹ The estimated average staff compensation was derived from the current base and locality pay structure tables applicable to Commission employees. It was calculated using the average compensation for employees at the relevant staff level in the applicable Commission office.

ATTACHMENT A

**Supporting Statement for Financial Resources Requirements for Derivatives
Clearing Organizations**

OMB Control No. 3038-0066

	1	2	3	4	5	6	7	8	9
	Est. No. of Respondents	Est. Annual Reports per Respondent	Est. Total Annual Responses (1x2)	Est. Avg. No. of Hours per Response	Est. Annual No. of Burden Hours per Respondent (2x4)	Est. Avg. Burden Hour Cost ²	Est. Avg. Burden Cost per Respondent (5x6)	Est. Total Annual Burden Hours	Total Est. Annual Burden Cost of All Responses (1x7)
	17	4	68	10	40	\$46.90	\$1,876	680	\$31,892

² The average annual compensation for a Financial Reporting Manager is \$97,546 per year according to the SIFMA Report. By dividing \$97,546 per year by 52 (number of weeks per year) and dividing that number by 40 (hours per week), the average cost per hour of a Financial Reporting Manager is determined to be \$46.90.