

SUPPORTING STATEMENT FOR THE PAPERWORK REDUCTION ACT INFORMATION COLLECTION SUBMISSION FOR

APPLICATIONS BY SECURITY-BASED SWAP DEALERS OR MAJOR SECURITY-BASED SWAP PARTICIPANTS FOR STATUTORILY DISQUALIFIED ASSOCIATED PERSONS TO EFFECT OR BE INVOLVED IN EFFECTING SECURITY-BASED SWAPS

A. JUSTIFICATION

1. Necessity of Information Collection

This submission is being made pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 et seq. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “Dodd-Frank Act”) added Section 15F to the Securities Exchange Act of 1934 (“Exchange Act”) to create a regulatory structure to allow the Securities and Exchange Commission (the “Commission”) to regulate security-based swap dealers and major security-based swap participants (collectively, “SBS Entity”). Exchange Act Section 15F(b)(6), as added by Section 764(a) of the Dodd-Frank Act, makes it unlawful for an SBS Entity to permit an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of the SBS Entity if the SBS Entity knew, or in the exercise of reasonable care should have known, of the statutory disqualification, “[e]xcept to the extent otherwise specifically provided by rule, regulation, or order of the Commission.”¹

On August 5, 2015, the Commission proposed Rule of Practice 194 which would provide a process for an SBS Entity to make an application to the Commission for an order permitting an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of the SBS Entity.² The rule specifies the process for obtaining relief from the statutory prohibition in Exchange Act Section 15F(b)(6), including by setting forth the required showing, the form of application and the items to be addressed with respect to associated persons that are natural persons.

In particular, Rule of Practice 194 provides as follows:

¹ Exchange Act Section 15F(b)(6) provides: “Except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, it shall be unlawful for a security-based swap dealer or a major security-based swap participant to permit any person associated with a security-based swap dealer or a major security-based swap participant who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of the security-based swap dealer or major security-based swap participant, if the security-based swap dealer or major security-based swap participant knew, or in the exercise or reasonable care should have known, of the statutory disqualification.” 15 U.S.C. 78o-10(b)(6).

² See *Applications by Security-Based Swap Dealers or Major Security-Based Swap Participants for Statutorily Disqualified Associated Persons to Effect or be Involved in Effecting Security-Based Swaps*, Exchange Act Release No. 75612 (Aug. 5, 2013), 80 Fed. Reg. 51683 (Aug. 25, 2015). OMB No. 3235-0733 was assigned to proposed collection of information.

- Paragraph (a) of the rule defines the scope of the rule. The rule allows an SBS Entity to voluntarily submit an application to the Commission to request an order where an associated person of an SBS Entity is subject to a statutory disqualification and thereby prohibited from effecting or being involved in effecting security based swaps on behalf of the SBS Entity under Exchange Act Section 15F(b)(6).³
- Paragraph (b) sets forth the required showing for an application. For the Commission to issue an order granting relief under Rule of Practice 194, the Commission would need to find that it would be consistent with the public interest to permit the associated person of the SBS Entity who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of the SBS Entity.
- Paragraph (c) provides an exclusion from the statutory prohibition in Exchange Act Section 15F(b)(6) with respect to associated persons that are not natural persons and that are subject to a statutory disqualification.
- Paragraph (d) specifies the form of the application for natural persons subject to a statutory disqualification. Paragraph (d) requires that each application with respect to an associated person subject to a statutory disqualification shall be supported by a written statement, signed by a knowledgeable person authorized by the SBS Entity.
- Paragraph (e) sets forth the items to be addressed for applications with respect to natural persons subject to a statutory disqualification. Each of the items in paragraph (e) is addressed in the written statement required by paragraph (d).
- Paragraph (f) requires an applicant to provide as part of the application any order, notice or other applicable document reflecting the grant, denial or other disposition (including any dispositions on appeal) of any prior application concerning the associated person under the rule and other similar processes.
- Paragraph (g) governs the procedure where there is an adverse recommendation proposed by the staff with respect to an application. Paragraph (g) provides that where there is such an adverse recommendation, the applicant shall be so advised and provided with a written statement by the staff of the reasons for such recommendation.
- Paragraph (h) limits the applicability of the prohibition in Exchange Act Section 15F(b)(6) by prescribing the conditions under which an SBS Entity may permit a person associated with it that is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on its behalf without being required to file an application under Rule of Practice 194. Generally, paragraph (h) permits associated persons that are subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of SBS Entities where the Commission or other regulatory authority previously reviewed the matter and permitted the person subject to a statutory

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15 U.S.C. 78o-10(b)(6).

disqualification to be a member, associated with a member, registered or listed as a principal of a regulated entity notwithstanding statutory disqualification.

Application

To make an application under Rule of Practice 194, the SBS Entity filing an application with respect to an associated person would provide to the Commission:

- Exhibits required by paragraph (d) to Rule of Practice 194, including a copy of the order or other applicable document that resulted in the associated person being subject to a statutory disqualification; an undertaking by the applicant to notify promptly the Commission in writing if any information submitted in support of the application becomes materially false or misleading while the application is pending; a copy of the questionnaire or application for employment specified in Rule 15Fb6-2(b), with respect to the associated person; in cases where the associated person has been subject of any proceedings resulting in the imposition of disciplinary sanctions during the five years preceding the filing of the application or is the subject of a pending proceeding by the Commission, Commodity Futures Trading Commission (“CFTC”), any federal or state regulatory or law enforcement agency, registered futures association, foreign financial regulatory authority, registered national securities association, or any other self-regulatory organization (“SRO”),⁴ or commodities exchange or any court, a copy of the related order, decision, or document issued by the court, agency or SRO.
- A written statement that includes the information specified in paragraph (e) to Rule of Practice 194, including, but not limited to: the associated person’s compliance with any order resulting in statutory disqualification; the capacity or position in which the person subject to a statutory disqualification proposes to be associated with the SBS Entity; the terms and conditions of employment and supervision to be exercised over such associated person and, where applicable, by such associated person; the compliance and disciplinary history, during the five years preceding the filing of the application, of the SBS Entity; information concerning prior applications or processes.

Under paragraph (g) to Rule of Practice 194, an applicant could submit a written statement in response to any adverse recommendation proposed by Commission staff with respect to an application under proposed Rule of Practice 194.

The information sought in connection with Rule of Practice 194 assists the Commission in determining whether allowing associated persons to effect or be involved in effecting security-based swaps on behalf of a SBS Entity, notwithstanding statutory disqualification, is consistent with the public interest.

⁴ “Self-regulatory organization” is defined in Section 3(a)(26) of the Exchange Act (15 U.S.C. 78c(a)(26)) as “any national securities exchange, registered securities association, or registered clearing agency, or (solely for the purposes of sections 19(b), 19(c) and 23(b) of [the Exchange Act]) the Municipal Securities Rulemaking Board established by section 15B of [the Exchange Act].”

Notice

An SBS Entity is not required to file an application under Rule of Practice 194 with respect to certain associated persons that are subject to a statutory disqualification, as provided for in paragraph (h) of Rule of Practice 194. To meet those requirements, however, the SBS Entity is required to file a notice with the Commission.

For associated persons that are natural persons, the notice in paragraph (h)(2)(iii) sets forth: (1) the name of the SBS Entity; (2) the name of the associated person subject to a statutory disqualification; (3) the name of the associated person's prospective supervisor(s) at the SBS Entity; (4) the place of employment for the associated person subject to a statutory disqualification; and (5) identification of any SRO or agency that has indicated its agreement with the terms and conditions of the proposed association, registration or listing as a principal.

Information collected in connection with the notice provided by Rule of Practice 194(h)(2)(iii) assists the Commission for examination purposes by identifying associated persons that are subject to a statutory disqualification (and other basic information).

2. Purpose and Use of the Information Collection

Application

Information collected in connection with an application under Rule of Practice 194 assists the Commission in determining whether an associated person of an SBS Entity should be permitted to effect or be involved in effecting security-based swaps on behalf of the SBS Entity, notwithstanding that the associated person is subject to a statutory disqualification. Although, absent the rule, an SBS Entity could nonetheless submit an application for an exemptive order directly under Exchange Act Section 15F(b)(6),⁵ Rule of Practice 194 specifies the information the Commission needs to evaluate such an application, and under what standard the Commission will consider whether to grant such relief.

Notice

Information collected in connection with the notice provided by Rule of Practice 194(h)(2)(iii) assists the Commission for examination purposes by identifying associated persons that are subject to a statutory disqualification (and other basic information).

3. Consideration Given to Information Technology

Rule of Practice 194 utilizes established procedures under the Commission's current Rules of Practice,⁶ including Rule of Practice 150.⁷ Rule of Practice 150 allows filings with the Commission to be made by facsimile if a contemporaneous transmission of a non-facsimile

⁵ 15 U.S.C. 78o-10(b)(6).

⁶ 17 CFR 201.100 *et seq.*

⁷ 17 CFR 201.150.

original with manual signature is made.

4. Duplication

Rule of Practice 194 does not establish a duplicative process because SBS Entities are not presently required to register and are not presently subject to the statutory prohibition in Exchange Act Section 15F(b)(6).⁸ Rule of Practice 194 establishes a voluntary process for an SBS Entity to seek relief in the event that an associated person of the SBS Entity becomes subject to the statutory prohibition in Exchange Act Section 15F(b)(6).

In proposing Rule of Practice 194, the Commission sought, where appropriate, to minimize the burdens and costs associated with Rule of Practice 194 and to avoid duplication. For example, as proposed, the Commission would not require an application under proposed Rule of Practice 194 with respect to certain associated persons subject to a statutory disqualification previously granted relief (*i.e.*, by Commission, CFTC, SRO, or NFA). Rather, in such instances, SBS Entities would only be required to provide a brief notice to the Commission under Rule of Practice 194(h)(2)(iii).

5. Effect on Small Entities

Based on the Commission’s existing information about the security-based swap market, the Commission believes that no entities that will qualify as SBS Entities will be “small entities” under the definition used for the purposes of the Regulatory Flexibility Act and specified in 17 CFR 240.0-10.⁹

6. Consequences of Not Conducting Collection

Absent Rule of Practice 194, SBS Entities seeking to apply for relief from Exchange Act Section 15F(b)(6) will be able to apply to the Commission directly, outside of a formal process, possibly looking to either Rule of Practice 193¹⁰ or an analogous process as a guide. However, the Commission believes that such applications, due to the lack of clarity, would be more time-

⁸ An entity is not subject to the statutory prohibition in Exchange Act Section 15F(b)(6) until it becomes a security-based swap dealer or a major security-based swap participant pursuant to the Commission’s rules. *See* 17 CFR 240.3a67-8, 240.3a67-9, 240.3a71-2.

In addition, on June 15, 2011, the Commission issued an order that, among other things, granted temporary relief from compliance with Exchange Act Section 15F(b)(6), and Exchange Act Section 29(b), 15 U.S.C. 78cc(b), concerning enforceability of contracts that would violate, among other provisions, Exchange Act Section 15F(b)(6). *See Temporary Exemptions and Other Temporary Relief, Together With Information on Compliance Dates for New Provisions of the Securities Exchange Act of 1934 Applicable to Security-Based Swaps*, Exchange Act Release No. 64678 (June 15, 2011), 76 FR 36287, 36301, 36305-07 (June 22, 2011) (“Temporary Exemptions Order”). Under the Temporary Exemptions Order, persons subject to a statutory disqualification who were, as of July 16, 2011, associated with an SBS Entity and who effected or were involved in effecting security-based swaps on behalf of such SBS Entity could continue to be associated with an SBS Entity until the date upon which rules adopted by the Commission to register SBS Entities became effective.

⁹ *See* 17 CFR 240.0-10.

¹⁰ 17 CFR 201.193.

consuming, and would be more prone to errors or more likely to be deemed to contain insufficient information to allow the Commission to make a determination.

Under Rule of Practice 194, SBS Entities should generally be aware of the information they are required to provide, as well as the standard of review. The Commission also believes that clarity about the items that the Commission will consider in making a determination, while not altering the set of possible outcomes, will allow SBS Entities to make informed assessments as to the likelihood that the Commission will either grant or deny relief. Thus, Rule of Practice 194 may conserve resources and may allow SBS Entities to make more-informed evaluations about the tradeoff between pursuing an application and reassigning a person subject to a statutory disqualification.

Finally, paragraph (h) of Rule of Practice 194 provides relief in cases where the Commission, the CFTC, an SRO, or a registered futures association has granted a prior application or otherwise granted relief from a statutory disqualification with respect to that associated person. To the extent that SBS Entities and other regulated entities use the same personnel or entities to effect security-based swaps, swaps, and securities transactions, this proposed rule may conserve resources in the sense that SBS Entities will not have to undergo duplicate review when decisions about relief from statutory disqualifications have already been made by the Commission or another regulatory authority.

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultations Outside the Agency

The Commission requested comment on the collection of information requirements in the proposing release in August 2015 and provide a footnote to the proposed release.¹¹ The Commission received six comment letters in response to the proposed rule.¹² In particular, the Commission asked commenters to evaluate whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information shall have practical utility; to evaluate the accuracy of our estimate of the burden of the proposed collection of information; to determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and to evaluate whether there are ways to minimize the burden of collection techniques or other forms of information technology. The Commission did not receive any comments on the collection of information requirements.

9. Payment or Gift

Not applicable.

¹¹ See <https://www.gpo.gov/fdsys/pkg/FR-2015-08-25/pdf/2015-19662.pdf>.

¹² See <https://www.sec.gov/comments/s7-14-15/s71415.shtml>.

10. Confidentiality

The information collected pursuant to Rule of Practice 194 will be kept confidential, subject to the provisions of applicable law.

11. Sensitive Questions

The collection of information includes Personally Identifiable Information (PII). In particular, the collection of information includes the name of the associated person that is subject to a statutory disqualification.

The Commission has published System of Records Notices for the collection of information relating to security-based swap dealers and major security-based swap participants.¹³ A Privacy Impact Assessment is not necessary as submissions pursuant to this rule will be paper submissions.

12. Burden of Information Collection

a. Respondents

The Commission has previously stated that it believes that, based on data obtained from the Depository Trust & Clearing Corporation and conversations with market participants, approximately 50 entities may fit within the definition of security-based swap dealer and up to five entities may fit within the definition of major security-based swap participant—55 SBS Entities in total.¹⁴

With respect to associated persons that are natural persons, the Commission has estimated that there will be 420 total associated persons that are natural persons at each SBS dealer and 62 total associated persons that are natural persons at each major participant, or 21,310 total associated persons that are natural persons.¹⁵ The Commission anticipates that, on

¹³ See Systems of Records Notice SEC-70, SEC's Division of Trading and Markets Records, available at <http://www.sec.gov/about/privacy/secprivacyoffice.htm>.

¹⁴ See *Application of “Security-Based Swap Dealer” and “Major Security-Based Swap Participant” Definitions to Cross-Border Security-Based Swap Activities*, Exchange Act Release No. 72472 (June 25, 2014), 79 FR 47278, 47300 (Aug. 12, 2014) (“Cross-Border Adopting Release”).

¹⁵ Based on an analysis of broker-dealer FOCUS reports, as of December 31, 2017, there were 3,523 broker-dealers that employed full-time registered representatives and were doing a public business; these broker-dealers each employed on average 75.8 registered representatives, or approximately 267,043 in total. However, based on our review of the entities we believe may register as security-based swap dealers, the Commission believes the subset of clearing broker-dealers provides a better estimate. As of December 31, 2017, there were 438 clearing broker-dealers which had, on average, each employed 420 persons who were registered representatives; we use this average as the basis for our estimate of 21,000 natural persons associated with dealers (420*50=21,000). Note, however, that SBS Entities will be limited to sales of security-based swaps, whereas broker-dealers are generally engaged in the sale of a broader range of financial instruments, as well as other business lines such as prime brokerage services. Thus, it is possible that fewer people would be needed to facilitate this business.

Since registration requirements for major security-based swap participants are triggered by position

an average annual basis, only a small fraction of the natural persons would be subject to a statutory disqualification. By way of comparison, of the nearly 4,000 currently registered broker-dealers and approximately 272,000 registered representatives,¹⁶ based on information provided by FINRA to the Commission, between 2011 and June 2018, FINRA received an average of 33 MC-400 applications with respect to individuals subject to a statutory disqualification seeking relief under the FINRA Rule 9520 Series. Given that the Commission estimates that there will be far fewer SBS Entities (55) and associated persons of SBS Entities that are natural persons (21,310 total associated persons that are natural persons), the Commission anticipates that SBS Entities will file for relief under Rule of Practice 194 with respect to substantially fewer associated persons that are natural persons.

In addition, to estimate the number of such persons, the Commission staff has conferred with NFA to assess how many associated persons of the 101 provisionally registered Swap Entities¹⁷ have applied for relief from CEA 4s(b)(6)¹⁸ (the analogous provision to Exchange Act Section 15F(b)(6)¹⁹ for SBS Entities) for determination by NFA that, had the associated person applied for registration as an associated person of a Swap Entity, notwithstanding statutory disqualification, the application would have been granted.²⁰ NFA has informed Commission staff that, from October 2012 to June 30, 2018, NFA determined that in 13 out of 15 requests NFA would have granted registration with respect to the associated person subject to a statutory disqualification.

Accordingly, based on that available data, the Commission estimates that, on an average annual basis, of the 55 SBS Entities, the Commission would receive up to five applications in accordance with Rule of Practice 194 with respect to associated person that are natural persons, and five notices pursuant to proposed Rule of Practice 194(h)(2)(iii) with respect to associated persons that are natural persons.²¹

thresholds, as opposed to activity thresholds for dealer registration, we anticipate that entities which may seek to register with the Commission as major security-based swap participants may more closely resemble hedge funds and investment advisors. To estimate the number of natural persons associated with major security-based swap participants, we use Form ADV filings by registered investment advisers. Based on this analysis, as of June 30, 2018 there were 13,010 registered investment advisers; these investment advisers had an average 62 employees each. We use this average as the basis for our estimate of 310 natural persons associated with major security-based swap participants (62*5=310).

¹⁶ Based on an analysis of regulatory filings, as of December 31, 2014, there are 3,954 broker-dealers that employed full-time registered representatives and were doing a public business; these broker-dealers each employed on average 69 registered representatives, or approximately 272,000 in total.

¹⁷ See NFA SD/MSP Registry, <https://www.nfa.futures.org/NFA-swaps-information/regulatory-info-sd-and-msp/SD-MSP-registry.HTML>.

¹⁸ 7 U.S.C. 6s(b)(6).

¹⁹ 15 U.S.C. 78o-10(b)(6).

²⁰ See EasyFile AP Statutory Disqualification Form Submission, NFA, <https://www.nfa.futures.org/NFA-electronic-filings/easyFile-statutory-disqualification.HTML>.

²¹ Because Rule of Practice 194, as adopted, provides an exclusion for an SBS Entity from the prohibition in Exchange Act Section 15F(b)(6) with respect to associated person entities, Rule 15Fb6-1 and its related Schedule C to Forms SBSE, SBSE-A, and SBSE-BD are no longer necessary. However, the staff did not

b. Description of Burdens

i. *Burden Associated with Filing Applications under Rule of Practice 194*

It is likely that the time necessary to complete an application under Rule of Practice 194 will vary depending on the number of exhibits required to be submitted in accordance with Rule of Practice 194(d), and the amount of information that will need to be discussed in the written statement, as specified in Rule of Practice 194(e) and (f).

Based on the Commission staff's estimates and experience,²² the Commission estimates that the average time necessary for an SBS Entity to research the questions, and complete and file an application under Rule of Practice 194 with respect to associated persons that are natural persons, the information requested under Rule of Practice 194 is approximately 30 hours.

Given that the Commission estimates that, on an average annual basis, there will be five applications²³ under Rule of Practice 194 with respect to associated persons that are natural persons, the Commission estimates the total burden associated with filing such applications on average to be 150 hours on an annual basis.²⁴ As explained further below, given that the Commission estimates that, on an average annual basis, there will be up to five notices under Rule of Practice 194(h)(2)(iii), the Commission estimates the total burden associated with filing such applications and notices on average to be 180 hours on an annual basis.²⁵

estimate any additional time burdens associated with completing Schedule C to those forms. As the Commission noted in the Registration Adopting Release for Rules 15Fb1-1 through 15Fb6-2, because applicants will have already identified statutorily disqualified persons in order to provide certification on Forms SBSE, SBSE-A, and SBSE-BD, listing statutorily disqualified entity associated persons on Schedule C will not measurably increase the time it will take to complete those forms. Thus, eliminating Schedule C to those forms will not result in any change to the time burdens estimated for Forms SBSE, SBSE-A, and SBSE-BD as set forth in the Registration Adopting Release nor will it impact the time burdens associated with Rule of Practice 194.

²² For example, based on the experience relative to Form BD, the Commission has estimated the average time necessary for an SBS Entity to research the questions and complete and file a Form SBSE for an entity, including the accompanying schedules and disclosure reporting pages—which solicit information regarding statutory disqualification—to be approximately one work week, or 40 hours. However, the Commission has estimated that it would take an SBS Entity three-quarters of the time to make a similar application on behalf of a natural person, or in this case, 30 hours per natural person. *See Proposing Release*, 80 FR 51707. The Commission also estimates that the internal cost burden associated with filing an application will be approximately \$12,270 per application (\$409 per hour x 30 hours = \$12,270).

²³ The Commission estimates that, out of the 55 possible SBS Entities that would submit an application in accordance with Rule of Practice 194, a total of up to five applications are likely to be submitted in a given year. While it is possible that some SBS Entities would submit more than one application in a given year, the total number of applications submitted by all 55 SBS Entities is not expected to exceed five applications in a given year. For purposes of the burden estimate, we are treating each application as being submitted by a separate SBS Entity respondent.

²⁴ This estimate is based on the following: (30 hours) x (5 SBS Entities applying with respect to associated persons that are natural persons) = 150 hours per year.

²⁵ This estimate is based on the following: (30 hours) x (up to 5 SBS Entities applying with respect to

In summary, the Commission estimates that, over a three-year period, the ongoing reporting burden for all SBS Entity respondents associated with Rule of Practice 194 with respect to associated persons that are natural persons would be approximately 450 hours,²⁶ or 150 hours per year.²⁷ The ongoing burden per SBS Entity respondent would be 90 hours, or 30 hours per year.²⁸

ii. Burden Associated with Filing Notices under Rule of Practice 194(h)(2)(iii)

The Commission has estimated that approximately five SBS Entities will provide notices²⁹ pursuant to Rule of Practice 194(h)(2)(iii) for one natural person each on an average annual basis. The Commission believes that the average time necessary for an SBS Entity to research the questions, complete and file the brief notice under Rule of Practice 194(h)(2)(iii) will be less than for a full application under Rule of Practice 194 and the Commission estimates that it will take approximately 6 hours per notice, or 30 hours total on an average annual basis for all SBS Entities providing the notices for an estimated five natural persons.³⁰

In summary, the Commission estimates that, over a three-year period, the ongoing reporting burden for all SBS Entities associated with filing notices under Rule of Practice 194(h)(2)(iii) would be approximately 90 hours,³¹ or 30 per year.³² The average estimated burden per SBS Entity respondent would be 18 hours, or 6 hours per year.³³

associated persons that are natural persons) + (6 hours) x (5 SBS Entities filing notices under Rule of Practice 194(h)(2)(iii)) = 180 hours per year.

²⁶ This estimate is based on the following: (30 hours) x (5 SBS Entities applying with respect to associated persons that are natural persons) x (3 years) = 450 hours total.

²⁷ 450 hours ÷ 3 = 150 hours per year.

²⁸ 450 hours (total burden to research the questions, and complete and file an application under Rule of Practice 194) ÷ 5 SBS Entities (estimated number of SBS Entities that will submit applications under Rule of Practice 194 with respect to associated persons that are natural persons) = 90 hours ÷ 3 = 30 hours per respondent.

²⁹ The Commission estimates that, out of the 55 possible SBS Entities that would submit a notice in accordance with Rule of Practice 194(h)(2)(iii), a total of up to five notices are likely to be submitted in a given year. While it is possible that some SBS Entities would submit more than one notice in a given year, the total number of notices submitted by all 55 SBS Entities is not expected to exceed five notices in a given year. For purposes of the burden estimate, we are treating each notice as being submitted by a separate SBS Entity respondent. The Commission also estimates that the internal cost burden associated with filing a notice will be approximately \$2,454 per notice (\$409 per hour x 6 hours = \$2,454).

³⁰ This estimate is based on the following: (6 hours) x (5 SBS Entities filing notices under proposed Rule of Practice 194(h)(2)(iii)) = 30 hours per year.

³¹ This estimate is based on the following: (6 hours) x (5 SBS Entities filing notices under proposed Rule of Practice 194(h)(2)(iii)) x (3 years) = 90 hours total.

³² 90 hours ÷ 3 = 30 hours per year.

³³ 90 hours (total burden to file a notice under Rule of Practice 194(h)(2)(iii)) ÷ 5 SBS Entities (estimated number of total SBS Entities) = 18 hours ÷ 3 = 6 hours per respondent.

Summary of Hourly Burdens

Rule of Practice 194									
	<u>Nature of Information Collection Burden</u>	<u>Type of Burden</u>	<u>Number of Respondents</u>	<u>Number of Annual Responses Per Respondent</u>	<u>Initial Burden Per Response Per Respondent</u>	<u>Ongoing Burden Per Response Per Year Per Respondent</u>	<u>Total Annual Burden Per Respondent</u>	<u>Total Annual Industry Burden</u>	<u>Small Business Entities Affected</u>
	Burden Associated with Filing Applications	Reporting	5	1	0	30	30	150	0
	Burden Associated with Filing Notices)	Reporting	5	1	0	6	6	30	0
								180	

13. Costs to Respondents

Not applicable.

14. Costs to the Federal Government

Not applicable.

15. Reason for Changes in Burden

The Commission has increased its estimate for the hour burden per respondent filing a notice under proposed Rule of Practice 194(h)(2)(iii). Although the Commission did not receive any comments on the time burden for completing a notice under Rule of Practice 194, we have decided to increase the estimate of 3 hours per notice to 6 hours per notice to reflect that it may take an SBS Entity, especially one doing this for the first time, longer to research the questions, complete and file a notice than the proposed 3 hours per notice. Thus, the total annual time burden for the burden associated with filing notices is increasing by 15 hours.

Additionally, the Commission is removing two previously reviewed information collections – the filing of notices and applications connected to associated person entities. In the proposal, the Commission solicited comment on two alternative approaches with respect to the proposed temporary exclusion for associated person entities. One of the alternatives in the proposal would have provided relief from the general prohibition in Exchange Act Section 15F(b)(6) with respect to all associated person entities – an approach that would be consistent with the CFTC’s approach. In an effort to more closely harmonize with the CFTC’s approach and, as noted by one commenter, to reduce potential disruptions to the business of SBS Entities, even temporary disruptions, which could lead to market disruption, the Commission adopted Rule of Practice 194 with an exclusion from the general prohibition in Exchange Act Section 15F(b)(6) with respect to all associated person entities. As a result, the final rule does not have an information collection requirement for associated person entities and we removed the burdens estimates associated with filing applications and notices for these entities. The Commission previously anticipated a total time burden of 80 hours per year for applications

involving associated person entities that were statutorily disqualified and six hours per year for notices involving associated person entities that were statutorily disqualified. Both of those burdens are zero hours under the rule that that Commission has adopted.

Summary of Burden Changes

Rule of Practice 194								
			<u>Total Annual Number of Responses</u>			<u>Total Annual Time Burden (Hrs.)</u>		
	<u>Nature of Information Collection Burden</u>	<u>Type of Burden</u>	<u>Previously Reviewed</u>	<u>Requested</u>	<u>Change</u>	<u>Previously Reviewed</u>	<u>Requested</u>	<u>Change</u>
	Burden Associated with Filing Applications (entities)	Reporting	2	0	-2	80	0	-80
	Burden Associated with Filing Notices (entities)	Reporting	2	0	-2	6	0	-6
	Burden Associated with Filing Applications (natural persons)	Reporting	5	5	0	150	150	0
	Burden Associated with Filing Notices (natural persons)	Reporting	5	5	0	15	30	+15
	Net Change				-4			-71

16. Information Collections Planned for Statistical Purposes

Not applicable.

17. Display of OMB Approval Date

The Commission is not seeking approval to not display the OMB approval expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.