

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

OMB CONTROL NUMBER 3038-0017

Special calls for information on open contracts in accounts carried or introduced by futures commission merchants, clearing members, members of reporting markets, introducing brokers, and foreign brokers.

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.**

Sections 8(a)(1) and (2) of the Commodity Exchange Act (Act) provide that, for the efficient execution of the provisions of the Act and in order to inform Congress, the Commodity Futures Trading Commission (Commission) may make investigations concerning markets and publish the results of any such investigation including any general statistical information gathered as it deems of interest to the public. In certain instances, in response to abrupt and substantial changes in market prices, congressional inquiry, or other reasons, the Commission may conduct full market investigations requiring that all persons holding futures positions on the date in question in a specific market be identified. The Commission issues its special call for information pursuant to Rule 21.02.

- 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 information is used primarily by surveillance analysts of the Division of Market Oversight in order to fulfill their market surveillance function. The data can also provide a basis for reports to Congress and can be used by Commission economists and analysts for research projects.

- 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.**

Part 21 of the Commission's regulations does not require machine-readable information adhering to a specific record layout. This matches current industry and Commission practice for special calls of data. Generally most, if not all, firms are able to provide the

data in electronic format. However, accommodations can be made to accept manual submissions.

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.

No other organization collects these data. The Commission obtains similar information through its large trader reporting system, but for only about 10 percent of the accounts which would be reported through this special call. Moreover, since identification information required on the special call is more detailed than that routinely collected, particularly with respect to occupation information, and, because small (*i.e.*, nonreportable) positions must be included on the call, information routinely collected through the daily reporting system is not sufficient for market survey purposes. Upon review, no collection information appears to be neither fully duplicated nor able to be replicated upon modification.

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

The information collection does not involve small organizations.

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.

The Commission would not be able to carry out its oversight responsibilities for these markets. The collection requirements are essential to the Commission's mission as mandated by the Commodity Exchange Act. Commodity markets require surveillance on a daily basis to not only ensure well-functioning markets; but also to prevent and deter situations such as attempted manipulations or other significant market events, which tend to develop rapidly. Since Special calls are conducted only on an as needed basis, as determined by the Commission, thus adequate surveillance and market research would be essentially impossible to preform if special calls were conducted on less frequent basis.

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.**

No such circumstances.

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

No such circumstances.

- **Requiring respondents to submit more than an original and two copies of any document.**

Respondents are required to submit only a single copy to the Commission.

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

For the purpose of enforcing the provisions of the Act and the Commission's regulations thereunder, Commission rule 1.31 (17 CFR § 1.31) requires that:

"All books and records required to be kept by the [Commodity Exchange] Act or by these regulations shall be kept in their original form (for paper records) or native file format (for electronic records) for a period of five years from the date thereof and shall be readily accessible during the first 2 years of the 5-year period". "All such books and records shall be open to inspection by any representative of the Commission, or the United States Department of Justice."

- **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 current and proposed reporting rules do not involve statistical surveys.

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

The current and proposed reporting rules do not involve statistical data classifications

- **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.**

The current and proposed reporting rules do not directly involve any pledge of confidentiality regarding the collection of data (please see answer to question 10).

- **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 will protect sensitive information according to the Freedom of Information Act and 17 CFR part 145, "Commission Records and Information." In addition, 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."

- 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).

Opportunity for public comment is provided when regulations are initiated or amended. Contact with derivatives markets and market participants is maintained on an ongoing basis to resolve reporting problems and address concerns. Notice of intent to renew this collection was published in the **Federal Register** on July 23, 2019 (84 Fed. Reg. 35376).¹

¹ <https://www.cftc.gov/sites/default/files/2019/07/2019-15615a.pdf>

No relevant comments have been received in response to the notices. The Commission has, and plans to continue, to solicit comments through publication of proposed rules in the Federal Register. The Commission will also, on an ongoing basis, solicit public comments through the notice required by 5 CFR 1320.8(d).

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.

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.

- 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. In addition, 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.”

- 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 data collection requirements relating to market data contain no sensitive questions 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 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.

Approximately 100 members of reporting markets, FCMs, introducing brokers, and foreign brokers will receive the initial abbreviated call for information. The majority of potential respondents either own their own computing infrastructure or use independent accounting services with automated data processing capabilities. We estimate that, on average, a maximum of 30 minutes would be necessary to respond to the initial call. Although burden hours for the follow-up call will depend on the particular sampling rate, typical requests for follow-up information is estimated at 250 accounts. This represents 10 percent of an expected maximum number of 2,500 accounts for any one special call. Providing follow-up information should take an average of 30 minutes per account. Using the above estimates, on average, we would expect a reporting burden of no more than 1.75 hours per member for a total special call burden of 175 hours estimated annually. This may range from zero for respondents who do not carry accounts in commodities specified in the call to as many as 25 hours for FCMs with a large number of customer accounts.

In arriving at a wage rate for the hourly costs imposed, Commission staff used the May 2017 National Occupational Employment and Wage Estimates United States, published by the Bureau of Labor Statistics.² For the cost calculations, as noted above, Commission staff used a composite (blended) wage rate by averaging the hour wages of a Compliance Officer and a Software Developer / Programmer to arrive at the hourly wage rate of \$42. Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collection of information. It is important to note that although the hourly wage referenced above does take production bonuses into account, it does not include other types of bonuses or consider certain variables such as employee benefits which can increase the cost of labor. The total information collection annual burden is approximately 175 hours. The total annualized cost equates to \$7,350.

- 13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**

² Available at https://www.bls.gov/oes/current/oes_nat.htm.

- **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.**

There are no applicable capital, start up, maintenance, or purchase of service cost component. Additionally, it is important to note that the information requested under the special call authority are basic account records that any market member or broker would create as a matter of sound business practices in the normal course of business operations and in response to requirements imposed by non-governmental financial self-regulatory bodies. Because these records would be generated in any event, independently of any regulatory requirements, we estimate that the reporting rules impose no additional material costs on reporting markets that relate to recordkeeping and retention.

- 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 Commission estimates the equivalent mix of approximately 15 Economist, Market and Surveillance Staff will expend approximately 100 hours over a total of 250 trading days to collect and analyze the information submitted. At an average salary rate of \$55 per hour for a full-time employee, the Commission estimates that the cost to the government will be \$5,500 annually. In arriving at a wage rate for the hourly costs imposed, Commission staff used the May 2018 National Occupational Employment and Wage Estimates, published by the Bureau of Labor Statistics.³ Specifically, Commission staff used Federal Executive Branch (OES Designation) salary rates by considering the most applicable hourly wages of Research Analysts to arrive at the hourly wage rate.

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

A reduction in the total annual number of responses from 400 in 2016 to 100 in 2019 has accordingly caused the estimated annual burden hours to lessen from 700 hours in the previous renewal to 175 hours currently. This reduction in annual responses can be attributed to improved methods and a considered approach surrounding the special call process, where the CFTC prudently exercises this option based on particular, carefully-weighed circumstances to avoid placing undue burdens on market participants. Furthermore, since the Federal wage rate of \$55 remained unchanged, compared to the previous PRA, this decrease from \$22,000 to \$5,500 annually was mainly due to fewer quantities of special call records being requested and submitted.

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.

There are no exceptions to the certification statement.

³ Available at https://www.bls.gov/oes/current/oes_nat.htm.

Attachment A

Reporting Burden

OMB Control Number 3038-0017 – [Market Surveys]

1. Regulation(s)	2. Estimated Number of Respondents	3. Estimated Number of Reports by Each Respondent	4. Estimated Average Number of Burden Hours per Response	5. Annual Number of Burden Hours per Respondent (3 x 4)	6. Estimated Average Burden Hour Cost ⁴	7. Total Average Hour Burden Cost Per Respondent (5 x 6)	8. Total Annual Responses (2 x 3)	9. Total Annual Number of Burden Hours (2 x 5)	10. Total Annual Burden Hour Cost of All Responses (2 x 7)
21.02	100	1	1.75	1.75	42.00	73.50	100	175	7,350

⁴ In arriving at a wage rate for the hourly costs imposed, Commission staff used the May 2018 National Occupational Employment and Wage Estimates, published by the Bureau of Labor Statistics. The wage rate used is a composite (blended) wage rate by averaging the hourly wages of a Compliance Officer and a Software Developer / Programmer to arrive at the hourly wage rate of \$42.