

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

OMB CONTROL NUMBER 3038-0111

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 (“Commission”) adopted a rule for the application of the Commission’s margin requirements to cross-border transactions (“Final Rule”).

Section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), P.L. 111-023, 124 Stat. 1376 (2010), amended the Commodity Exchange Act (“CEA”), 7 U.S.C. §§ 1 *et seq.*, to add, as section 4s(e) thereof, provisions concerning the setting of initial and variation margin requirements for swap dealers (“SDs”) and major swap participants (“MSPs”). Each SD and MSP for which there is a Prudential Regulator, as defined in section 1a(39) of the CEA, must meet margin requirements established by the applicable Prudential Regulator, and each SD and MSP for which there is no Prudential Regulator (“Covered Swap Entities” or “CSEs”) must comply with the Commission’s regulations governing margin on all swaps that are not centrally cleared.

With regard to the cross-border application of the Commission’s margin rules, section 2(i) of the CEA provides the Commission with express authority over activities outside the United States relating to swaps when certain conditions are met. Section 2(i) of the CEA provides that the provisions of the CEA relating to swaps that were enacted by the Wall Street Transparency and Accountability Act of 2010 (including any rule prescribed or regulation promulgated under that Act), shall not apply to activities outside the United States unless those activities (1) have a direct and significant connection with activities in, or effect on, commerce of the United States or (2) contravene such rules or regulations as the Commission may prescribe or promulgate as are necessary or appropriate to prevent the evasion of any provision of the CEA that was enacted by the Wall Street Transparency and Accountability Act of 2010.

On May 31, 2016, the Commission published a Final Rule addressing the cross-border application of its margin requirements for uncleared swaps of CSEs (with substituted compliance available in certain circumstances), except as to a narrow class of uncleared swaps between a non-U.S. CSE and a non-U.S. counterparty that fall within a limited exclusion (the “Exclusion”).¹ As described below, the adopting release for the Final Rule contained a collection of information regarding requests for comparability determinations, which was previously included in the proposing release, and for which the Office of Management and Budget

¹ 81 FR 34818 (May 31, 2016).

(“OMB”) assigned OMB control number 3038-0111, titled “Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; Comparability with margin requirements.” In addition, the adopting release included two additional information collections regarding non-netting jurisdictions² and non-segregation jurisdictions³ that were not previously proposed.

Subsequently, on August 2, 2016, the Commission requested a revision of the collection for Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; Comparability with margin requirements (OMB control number 3038-0111) to include the burden estimates for the provisions regarding non-netting jurisdictions and non-segregation jurisdictions.⁴ This Supporting Statement covers all three collections covered by OMB control number 3038-0111.

Because margin requirements for uncleared swaps are critical in ensuring the safety and soundness of a CSE and to preserving the integrity of the financial markets, the Commission believes that its margin rules should apply on a cross-border basis in a manner that effectively addresses risks to the registered CSE and the U.S. financial system. At the same time, the Commission recognizes that non-U.S. CSEs and non-U.S. counterparties may be subject to comparable or different rules in their home jurisdictions. In accordance with principles of international comity, the Final Rule allows CSEs subject to the Commission’s margin requirements to satisfy the Commission’s margin requirements by complying with some or all of the relevant foreign jurisdiction’s margin requirements to the extent that the Commission makes a determination that the foreign jurisdiction’s requirements are comparable to the Commission’s corresponding margin requirements (referred to as “substituted compliance”). In certain limited circumstances, non-U.S. CSEs would not be required to comply with the Commission’s margin requirements for certain swap transactions with non-U.S. persons, subject to specified conditions.

Specifically, under section 23.160(c)(1) of the Final Rule, a CSE that is eligible for substituted compliance or a foreign regulatory agency that has direct supervisory authority over one or more covered swap entities that is responsible to administer the relevant foreign jurisdiction’s margin requirements may request, individually or collectively, that the Commission make a determination that a CSE that complies with margin requirements in the relevant foreign jurisdiction would be deemed to be in compliance with the Commission’s corresponding margin rules (a “comparability determination”). Once a comparability determination is made for a jurisdiction, it would apply for all entities or transactions in that jurisdiction to the extent provided in the comparability determination, as approved by the Commission and subject to any conditions specified by the Commission. All CSEs, regardless of

² As used in the adopting release, a “non-netting jurisdiction” is a jurisdiction in which a CSE cannot conclude, with a well-founded basis, that the netting agreement with a counterparty in that foreign jurisdiction meets the definition of an “eligible master netting agreement” set forth in the Final Rule, as described in section II.B.5.b of the adopting release.

³ As used in the adopting release, a “non-segregation jurisdiction” is a jurisdiction where inherent limitations in the legal or operational infrastructure of the foreign jurisdiction make it impracticable for the CSE and its counterparty to post initial margin pursuant to custodial arrangements that comply with the Commission’s margin rules, as further described in section II.B.4.b of the adopting release.

⁴ 81 FR 50690.

whether they rely on a comparability determination, remain subject to the Commission's examination and enforcement authority.

Section 23.160(c)(2) of the Final Rule requires that applicants for a comparability determination provide copies of the relevant foreign jurisdiction's margin requirements and descriptions of their objectives, how they differ from the BCBS/IOSCO international framework, and how they address the elements of the Commission's margin requirements. The applicant must identify the specific legal and regulatory provisions of the foreign jurisdiction's margin requirements that correspond to each element and, if necessary, whether the relevant foreign jurisdiction's margin requirements do not address a particular element.

Section 23.160(d) of the Final Rule includes a special provision for non-netting jurisdictions. This provision allows CSEs that cannot conclude after sufficient legal review with a well-founded basis that the netting agreement with a counterparty in a foreign jurisdiction meets the definition of an "eligible master netting agreement" set forth in the Final Rule to nevertheless net uncleared swaps in determining the amount of margin that they post, provided that certain conditions are met. In order to avail itself of this special provision, a CSE must treat the uncleared swaps covered by the agreement on a gross basis in determining the amount of initial and variation margin that it must collect, but may net those uncleared swaps in determining the amount of initial and variation margin it must post to the counterparty, in accordance with the netting provisions of the Final Rule. A CSE that enters into uncleared swaps in "non-netting" jurisdictions in reliance on this provision must have policies and procedures ensuring that it is in compliance with the special provision's requirements, and maintain books and records properly documenting that all of the requirements of this exception are satisfied.

Section 23.160(e) of the Final Rule includes a special provision for non-segregation jurisdictions that allows non-U.S. CSEs that are Foreign Consolidated Subsidiaries (as defined in the Final Rule) and foreign branches of U.S. CSEs to engage in swaps in foreign jurisdictions where inherent limitations in the legal or operational infrastructure make it impracticable for the CSE and its counterparty to post collateral in compliance with the custodial arrangement requirements of the Commission's margin rules, subject to certain conditions. In order to rely on this special provision, a Foreign Consolidated Subsidiary ("FCS") or foreign branch of a U.S. CSE is required to satisfy all of the conditions of the rule, including that (1) inherent limitations in the legal or operational infrastructure of the foreign jurisdiction make it impracticable for the CSE and its counterparty to post any form of eligible initial margin collateral for the uncleared swap pursuant to custodial arrangements that comply with the Commission's margin rules; (2) foreign regulatory restrictions require the CSE to transact in uncleared swaps with the counterparty through an establishment within the foreign jurisdiction and do not permit the posting of collateral for the swap in compliance with the custodial arrangements of section 23.157 of the Final Rule in the United States or a jurisdiction for which the Commission has issued a comparability determination under the Final Rule with respect to section 23.157; (3) the CSE's counterparty is not a U.S. person and is not a CSE, and the counterparty's obligations under the uncleared swap are not guaranteed by a U.S. person; (4) the CSE collects initial margin in cash on a gross basis, in cash, and posts and collects variation margin in cash, for the uncleared swap in accordance with the Final Rule; (5) for each broad risk category, as set out in § 23.154(b)(2)(v) of the Final Rule, the total outstanding notional value of all uncleared swaps in

that broad risk category, as to which the CSE is relying on § 23.160 (e), may not exceed 5 percent of the CSE's total outstanding notional value for all uncleared swaps in the same broad risk category; (6) the CSE has policies and procedures ensuring that it is in compliance with the requirements of this provision; and (7) the CSE maintains books and records properly documenting that all of the requirements of this provision are satisfied.

The collection of information that is required by this rulemaking is necessary to implement section 4s(e) of the CEA, which expressly authorizes the Commission to adopt rules governing margin requirements for SDs and MSPs that do not have a Prudential Regulator, and section 2(i) of the CEA, which provides the Commission with express authority over swaps activities in cross-border transactions when certain conditions are met. As noted above, section 4s(e) of the CEA mandates the adoption of rules establishing minimum initial and variation margin requirements for SDs and MSPs on all swaps that are not centrally cleared. The information collection would be necessary for the Commission to consider whether the requirements of the foreign rules are comparable to the applicable requirements of the Commission's rules in ensuring the safety and soundness of the CSE and are appropriate for the risks associated with the uncleared swaps held as a CSE. Further, the Final Rule requires CSEs to have policies and procedures ensuring that they are in compliance with all of the requirements of the special provisions for non-netting jurisdictions and non-segregation provisions, respectively, and to maintain books and records properly documenting that all of the requirements of the special provisions for non-netting jurisdictions and non-segregation jurisdictions, respectively, are satisfied. These information collections are necessary as a means for the Commission to be able to determine that CSEs relying on these special provisions are entitled to do so and are complying with the special provisions' requirements.

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.

Persons requesting a comparability determination are required to submit documentation to the Commission. Further, the Final Rule requires CSEs to maintain books and records properly documenting that all of the requirements of the special provisions for non-netting jurisdictions and non-segregation jurisdictions, respectively, are satisfied. As noted above, CSEs (i.e., SDs and MSPs that are subject to the Commission's margin rules but are not subject to a Prudential Regulator's jurisdiction) that are eligible for substituted compliance under the Final Rule, as well as foreign regulatory agencies that have direct supervisory authority to administer the foreign regulatory framework for uncleared swaps in the requested foreign jurisdiction, may make a request for a comparability determination. The Commission will use the information submitted with the request to determine whether the relevant foreign jurisdiction's margin rules for uncleared swaps are comparable to the Commission's corresponding margin requirements. The SDs and MSPs may submit the required documentation electronically or by hard copy. The documentation will provide an analysis and comparison of the foreign jurisdiction's regulations to the Commission's regulations for the purpose of providing the Commission with information necessary to make a comparability determination to the extent that it determines that some or all of the relevant foreign jurisdiction's margin requirements are comparable to the Commission's corresponding margin requirements. Also, the Commission will use books and records

maintained by CSEs to determine whether CSEs relying on the special provisions for non-netting jurisdictions and non-segregation jurisdictions are entitled to do so and are complying with the special provisions' requirements.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

The collection of information may be reported electronically. The Commission would permit SDs, MSPs and foreign regulatory agencies who are requesting a comparability determination to submit information to the Commission electronically.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

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

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

The collection of information will not have a significant impact on small entities. The Commission notes that under its Final Rule, SDs and MSPs are only required to collect and post margin on uncleared swaps when the counterparties to the uncleared swaps are either other SDs and MSPs or financial end users. The Commission has determined that SDs and MSPs are not small entities. Furthermore, any financial end users that may be indirectly impacted by the Final Rule would be similar to ECPs, and, as such, they would not be small entities. Further, to the extent that there are any foreign financial entities that would not be considered ECPs, the Commission expects that there will not be a substantial number of these entities significantly impacted by the Final Rule because most foreign financial entities would likely be ECPs to the extent they would trade in uncleared swaps. The Commission expects that only a small number of foreign financial entities that are not ECPs, if any, would trade in uncleared swaps.

- 6. Describe the consequence to the Federal Program or policy activities if the collection were conducted less frequently as well as any technical or legal obstacles to reducing burden.**

An SD, MSP or foreign regulatory agency is required to submit documentation in support of a request for a comparability determination only once. If the Commission did not receive information regarding a comparability determination, the Commission could not assess whether

the foreign jurisdiction's margin rules for uncleared swaps are comparable to the Commission's corresponding margin requirements for uncleared swaps or whether CSEs relying on the special provisions for non-netting jurisdictions and non-segregation jurisdictions are entitled to do so and are complying with the special provisions' requirements.

7. Explain any special circumstances that require the collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**

Not applicable. The documentation in support of a comparability determination would only need to be submitted once.

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

Not applicable.

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

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

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

Not applicable.

- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

Not applicable.

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

Not applicable.

- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **The collection does not involve any pledge of confidentiality, requiring respondents to submit proprietary trade secrets, or other confidential**

information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

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

- 8. If applicable, provide a copy and identify the date and page number of publication in the *Federal Register* of the agency's notice required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

The Commission requested public comment in the Federal Register release, 84 FR 43589 (August 21, 2019) on any aspect of the collections of information. The Commission did not receive any comments.

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

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

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

The Commission does not provide respondents with an assurance of confidentiality beyond that provided by applicable law. The Commission fully complies with section 8(a)(1) of the Commodity Exchange Act, which strictly prohibits the Commission, unless specifically authorized by the Commodity Exchange Act, from making public "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers." The Commission has procedures to protect the confidentiality of an applicant's or registrant's data. These are set forth in the Commission's regulations at parts 145 and 147 of title 17 of the Code of Federal Regulations.

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The regulations covered by this collection do not require the giving of sensitive information, as that term is used in Question 11.

- 12. Provide estimates of the hour burden of the collection of information. The Statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than ten) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If the request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hours burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

See Attachment A. The Commission estimates that the collection of information required by the regulations in connection with comparability determinations will impose a burden of 560 annual hours on an estimated 14 entities. The collections of information in connection with non-netting jurisdictions and non-segregation jurisdictions will impose 540 annual hours on an estimated 54 CSEs who may rely on section 23.160(d) of the Final Rule, and 1,920 annual hours on an estimated 12 FCSs or foreign branches of U.S. CSEs who may rely on section 23.160(e) of the Final Rule.

- 13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**
- **The cost estimate should be split into two components; (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major costs factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software, monitoring, sampling, drilling and testing equipment, and record storage facilities.**
 - **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost**

burden estimate, agencies may consult with a sample of respondents (fewer than ten), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

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

- 14. Provide estimates of the annualized costs to the Federal Government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.**

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

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

The Commission is increasing the annual burden hour estimate for section 23.160(c) from 10 hours per respondent to 40 hours per respondent, based on its experience reviewing applications for comparability determinations. The Commission is also decreasing the number of respondents for section 23.160(c) because it has issued three comparability determinations since the rule was adopted. The Commission is also increasing the total burden hour estimate for section 23.160(d) in light of an increase in provisionally registered swap dealers.

- 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.

Attachment A

OMB Control Number 3038-0111 – Cross Border Application of the Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants

Reporting and Recordkeeping Burden

1. Regulation(s)	2. Estimated Number of Respondents	3. Estimated Number of Reports by Each Respondent	4. Annual Number of Burden Hours per Respondent	5. Estimated Average Burden Hour Cost	6. Total Average Hour Burden Cost Per Respondent (4 x 5)	7. Total Annual Responses (2 x 3)	8. Total Annual Number of Burden Hours (2 x 4)	9. Total Annual Burden Hour Cost of All Responses (2 x 6)
23.160(c)	14 ¹	1	40 ²	\$429	\$17,160	14	560	\$240,240 ³
23.160(d)	54 ⁴	1	10	\$429	\$4,290	54	540	\$231,660 ⁵
23.160(e)	12 ⁵	1	160	\$429	\$68,640	12	1,920	\$823,680 ⁷

¹ The Commission has already issued comparability determinations for Japan, the European Union, and Australia. Therefore, it estimates that it will receive requests for a comparability determination from the remaining 14 jurisdictions, consisting of the 13 other G20 jurisdictions, plus Switzerland.

² In light of the Commission’s experience working with entities requesting comparability determinations, the Commission is increasing its hour burden estimate from 10 hours to 40 hours per application.

³ The Commission estimates that the total aggregate cost of preparing such submission requests would be \$240,240, based on an estimated cost of \$429 per hour for an in-house attorney. Although different registrants may choose to staff preparation of the comparability determination request with different personnel, Commission staff estimates that, on average, an initial request could be prepared and submitted with 40 hours of an in-house attorney’s time. To estimate the hourly cost of an in-house attorney’s attorney time, Commission staff reviewed data in the May 2018 Bureau of Labor Statistics’ Report on Occupational Employment and Wages for Lawyers, modified by Commission staff to account for an 1800-hour work-year and multiplied by a factor of 5.35 to account for firm size, employee benefits and overhead. Commission staff believes that use of a 5.35 multiplier here is appropriate because some persons may retain outside advisors to assist in making the determinations under the rules.

⁴ Currently, there are approximately 107 swap entities provisionally registered with the Commission. The Commission estimates that of the approximately 107 swap entities that are provisionally registered, approximately 54 are CSEs that are subject to the Commission’s margin rules as they are not subject to a Prudential Regulator. Because all of these CSEs are eligible to use the special provision for non-netting jurisdictions, the Commission estimates that 54 CSEs may rely on section 23.160(d) of the Final Rule.

⁵ A CSE that enters into uncleared swaps in “non-netting” jurisdictions in reliance on section 23.160(d) of the Final Rule must have policies and procedures ensuring that it is in compliance with the requirements set forth in this section, and maintain books and records properly documenting that all of the requirements of this exception are satisfied. The Commission estimates that the total aggregate cost of this information collection would be \$234,660, based on an estimated cost of \$429 per hour for an in-house attorney to maintain books and records properly documenting that all of the requirements of the exception for non-netting jurisdictions are satisfied (including policies and procedures ensuring that they are in compliance). Although some registrants may use different compliance personnel, Commission staff estimates that, on average, a CSE could comply with this information collection with 10 hours of an in-house attorney’s time. To estimate the hourly cost of an in-house attorney’s attorney time, Commission staff reviewed data in the May 2018 Bureau of Labor Statistics’ Report on Occupational Employment and Wages for Lawyers, modified by Commission staff to account for an 1800-hour work-year and multiplied by a factor of 5.35 to account for firm size, employee benefits and overhead. Commission staff believes

that use of a 5.35 multiplier here is appropriate because some persons may retain outside advisors to assist in making the determinations under the rules.

⁶The Commission currently estimates that there are eight jurisdictions for which the first two conditions specified in section 23.160(e) of the Final Rule are satisfied and where FCSs and foreign branches of U.S. CSEs that are subject to the Commission's margin rules may engage in swaps. The Commission estimates that approximately 12 FCSs and foreign branches of U.S. CSEs may rely on section 23.160(e) of the Final Rule in some or all of these jurisdiction(s). The Commission estimates that each FCS or foreign branch of a U.S. CSE relying on this provision will incur an average of 20 annual burden hours to maintain books and records properly documenting that all of the requirements of this provision are satisfied (including policies and procedures ensuring that they are in compliance) with respect to each jurisdiction as to which they rely on the special provision. Thus, based on the estimated 8 non-segregation jurisdictions, the Commission estimates that each of the approximately 12 FCSs and foreign branches of U.S. CSEs that may rely on this provision will incur an estimated 160 average burden hours per year (i.e., 20 average burden hours per jurisdiction multiplied by 8).

⁷A CSE that enters into uncleared swaps in "non-segregation" jurisdictions in reliance on section 23.160(e) of the Final Rule must have policies and procedures ensuring that it is in compliance with the requirements set forth in this section, and maintain books and records properly documenting that all of the requirements of this exception are satisfied. The Commission estimates that the total aggregate cost of this information collection would be \$823,680, based on an estimated cost of \$429 per hour for an in-house attorney to maintain books and records properly documenting that all of the requirements of the exception for non-netting jurisdictions are satisfied (including policies and procedures ensuring that they are in compliance). Although some registrants may use different compliance personnel, Commission staff estimates that, on average, a CSE could comply with this information collection with 160 hours of an in-house attorney's time. To estimate the hourly cost of an in-house attorney's attorney time, Commission staff reviewed data in the May 2018 Bureau of Labor Statistics' Report on Occupational Employment and Wages for Lawyers, modified by Commission staff to account for an 1800-hour work-year and multiplied by a factor of 5.35 to account for firm size, employee benefits and overhead. Commission staff believes that use of a 5.35 multiplier here is appropriate because some persons may retain outside advisors to assist in making the determinations under the rules.