

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

**Regulations Governing Bankruptcies of Commodity Brokers**

**OMB CONTROL NUMBER 3038-0021<sup>1</sup>**

**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.**

This collection of information involves the reporting, recordkeeping, and third party disclosure requirements in the Commodity Futures Trading Commission's ("CFTC's") bankruptcy regulations for commodity broker liquidations, 17 CFR Part 190 ("Part 190"). These regulations apply to liquidations under Chapter 7, Subchapter IV of the Bankruptcy Code, 11 U.S.C. §§ 761 *et seq.* The CFTC promulgated Part 190 pursuant to the authority of 7 U.S.C. § 24.

The information collection requirements of Part 190 are necessary and will be used to facilitate the effective, efficient, and fair conduct of liquidation proceedings for commodity brokers and to protect the interests of customers in these proceedings both directly and by facilitating the participation of the CFTC in such proceedings. The information collection requirements in Part 190 can be summarized as follows:

Regulation 190.02(a)(1) requires each commodity broker that files a petition for bankruptcy and each commodity broker against which a petition for bankruptcy is filed by

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<sup>1</sup> There are two information collections now associated with OMB Control No. 3038-0021. The first includes the reporting, recordkeeping, and third party disclosure requirements applicable to a single respondent in a commodity broker liquidation (*e.g.*, a single commodity broker or a single trustee) within the relevant time period provided for in Commission regulations 190.02(a)(1), 190.02(a)(2), 190.02(b)(1), 190.02(b)(2), 190.02(b)(4), 190.02(c), 190.03(a)(1), 190.03(a)(2), 190.04(b) and 190.06(b). The second information collection includes the third party disclosure requirements provided for in Commission regulations 190.06(d) and 190.10(c) which are applicable on a regular basis to multiple respondents (*i.e.*, multiple futures commission merchants).

another person to notify the CFTC and the commodity broker's designated self-regulatory organization of the filing date, court, and docket number.

Regulation 190.02(a)(2) requires that, in a commodity broker liquidation, the commodity broker, the applicable self-regulatory organization, or the trustee appointed for purposes of the liquidation ("Trustee"), must notify the CFTC as to whether such entity or organization intends to transfer or apply to transfer open commodity contracts.

Regulation 190.02(b)(1) requires that, in a commodity broker liquidation, the Trustee must use its best efforts to publish notice to customers in a daily newspaper or newspapers of general circulation approved by the court serving the location of each branch office of the commodity broker warning that specifically identifiable property of customers (other than open commodity contracts which have not otherwise been liquidated) will be liquidated unless the customer provides appropriate written instructions to the Trustee concerning such property.

Regulation 190.02(b)(2) requires that, in a commodity broker liquidation, the Trustee must use best efforts to request promptly that customers provide the Trustee with instructions concerning the transfer or liquidation of specifically identifiable open commodity contracts and advise customers that, in the absence of timely receipt of such instructions, open contracts that are not transferred will be liquidated.

Regulation 190.02(b)(4) provides that, in a commodity broker liquidation, the Trustee must notify promptly each customer of record that an order for relief has been entered and must instruct each customer to file a proof of customer claim containing certain specified information. (The instruction to customers to file a proof of claim is also directly required by statute. 11 U.S.C. § 765(a)(1).)

Regulation 190.02(c) provides that when open commodity contracts in a commodity broker liquidation have been or are to be transferred to new brokers, the Trustee must transmit to the transferees any customer instructions previously received by the Trustee concerning the open contracts or specifically identifiable property which is to be transferred with such contracts.

Regulation 190.03(a)(1) provides that, in a commodity broker liquidation, the Trustee, on the primary liquidation date, must generate a new statement of account for each class of account of any customer which contains a commodity contract not required to be liquidated.

Regulation 190.03(a)(2) provides that the balance of any account generated in accordance with Commission regulation 190.03(a)(1) must be adjusted by the Trustee for subsequent operations.

Regulation 190.04(b) requires that, in a commodity broker liquidation, the Trustee must compute the funded balance each business day for each customer account which contains open commodity contracts until the final liquidation date.

Regulation 190.06(b) requires that, after a petition in bankruptcy has been filed by or against a commodity broker, any futures commission merchant (“FCM”) that intends to transfer commodity contracts held by or for the commodity broker from or for the account of a customer to another FCM must notify the CFTC.

Regulation 190.06(d) requires a commodity broker to provide an opportunity for each of its customers to specify, at the time the customer undertakes its first hedging contract, whether, in the event of bankruptcy, the customer prefers that open commodity contracts held in a hedging account be liquidated without seeking customer instructions.

Regulation 190.10(c) requires commodity brokers to provide their customers with a disclosure statement containing information about how customer property is treated under Part 190 in the event of bankruptcy.

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.**

Regulation 190.02(a)(1): The requirement to notify the CFTC of the filing of a petition for bankruptcy will enable and has enabled the CFTC to participate in the proceedings and to act for the protection of customers and the market and for compliance with applicable law.

Regulation 190.02(a)(2): The required disclosure will advise and has advised the CFTC of planned transfers of customer positions in commodity broker liquidations so that the CFTC can evaluate and determine whether to disapprove the transfer under 11 U.S.C. § 764(b) and 17 CFR § 190.06.

Regulation 190.02(b)(1): The required notice will help to alert and has helped to alert customers of a commodity broker that is in a liquidation proceeding that their specifically identifiable property will be liquidated unless the customer provides appropriate written instructions concerning such property to the Trustee.

Regulation 190.02(b)(2): The required notice will help and has helped to alert customers of a commodity broker that is in a liquidation proceeding of the need to provide the Trustee with instructions regarding the transfer or liquidation of their specifically identifiable open commodity contracts.

Regulation 190.02(b)(4): The required notification will alert and has alerted customers of a commodity broker in a liquidation proceeding of the need to file a claim to recover part or all of the value of customer property held by the commodity broker.

Regulation 190.02(c): This requirement will assist and has assisted in making available to brokers to whom open commodity contracts in a commodity broker liquidation have been transferred instructions that customers have previously provided to the Trustee regarding the customers' contracts. The new brokers will then be able to act on the customers' instructions.

Regulation 190.03(a)(1): The required account statements will be used and has been used by the Trustee to manage accounts pending liquidation, to facilitate transfers of accounts, and to form part of the basis for determining the amount to be paid on customer claims.

Regulation 190.03(a)(2): The adjustments required by this regulation will ensure and has ensured that the information used by the Trustee pursuant to Commission regulation 190.03(a)(1) is up to date.

Regulation 190.04(b): The calculation required by this regulation will be used and has been used by the Trustee to manage accounts pending liquidation, to facilitate transfers of accounts, and to form part of the basis for determining the amount to be paid on customer claims.

Regulation 190.06(b): The required disclosure will advise and has advised the CFTC of planned transfers of customer positions in commodity broker liquidations so that the CFTC can evaluate and determine whether to disapprove the transfer under 11 U.S.C. § 764(b) and 17 CFR § 190.06.

Regulation 190.06(d): The required notice will enable and has enabled the customers of FCMs that undertake hedging contracts to specify in advance whether the customer prefers that open hedging contracts held in a hedging contract be liquidated in the event that the FCM files, at some later point in time, for bankruptcy in commodity broker liquidation proceeding.

Regulation 190.10(c): The required disclosure will provide and has provided customers of commodity brokers who post property to serve as margin for commodity trading accounts

with information about the legal rules governing how their property will be treated in the event that the broker becomes involved in a commodity broker liquidation proceeding.

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.**

Regulation 190.10 provides that, unless instructed otherwise by the Commission, all mandatory or discretionary notices to be given to the Commission under Part 190 must be sent electronically to the Commission. Regulations 190.02(a)(1) and 190.02(a)(2) expressly provide that the notices required by these regulations must be submitted to the Commission in accordance with Commission regulation 190.10.

The recordkeeping requirements contained in Commission regulations 190.03(a)(1), 190.03(a)(2), and 190.04(b) involve procedures that can, and ordinarily would, be performed using electronic systems. Similarly, the communications between a Trustee and customers that are required by Commission regulations 190.02(b)(2), 190.02(b)(3), and 190.02(b)(4) and the communications between a Trustee and brokers to whom commodity contracts have been transferred that are required by Commission regulation 190.02(c) would be expected to occur electronically. It is likely that the automated systems established by the relevant FCM can be leveraged to effectuate such communications.

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.**

This information collection generally involves reporting, recordkeeping, and third party disclosure requirements in the unique circumstance of a commodity broker bankruptcy and, therefore, do not duplicate other collections of information.

Regulations 190.6(d) and 190.10(c) involve disclosure notices to customers of FCMs (most of whom also have the legal status of commodity brokers for purposes of Part 190) generally and are not confined to brokers in liquidation proceedings. The Commission previously amended its risk disclosure rules in order to consolidate disclosure statements and eliminate the requirement that customers provide a signed statement acknowledging receipt of the bankruptcy statement, thereby reducing duplicative disclosure requirements and easing administrative burdens on FCMs. (*See* 58 FR17495 (Apr. 5, 1993) and 59 FR 34376 (July 5, 1994)). The rules streamlined disclosure burdens by eliminating the requirement that FCMs provide the mandated disclosure statements to categories of customers whose financial sophistication and knowledge would render the information contained in these statements duplicative. (*See* 63 FR 8566 (Feb. 20, 1998)).

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 does not involve small entities.

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

Most of the information collection provisions of Part 190 involve a single notice to customers or to regulators upon the occurrence of a commodity broker liquidation or of certain events within the context of a commodity broker liquidation or involve a single notice to customers of FCMs. As a result, the frequency cannot be reduced without losing the benefit of the notice. The frequency of the recordkeeping requirements contained in Commission regulations 190.03(a)(1), 190.03(a)(2), and 190.04(b) is necessary for the information to be

meaningful in the fast-moving context of commodity markets where accounts are adjusted daily both by law and as a matter of business practice.

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;**

This question does not apply.

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

In cases where the respondent is required to provide information more promptly, the expediency is necessary to enable the CFTC and customers to address a fast moving situation.

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

This question does not apply.

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

Commission regulation 1.31 generally requires that books and records required to be kept by the Commodity Exchange Act (CEA) or by Commission regulations be retained for certain specified periods. In most cases, such period is not less than five years.

With respect to this particular information collection, the Commission notes that the instructions obtained by FCMs concerning the treatment of customer property in the event of commodity broker liquidation must be retained for more than three years in order to be available if the firm becomes involved in a commodity broker liquidation more than three years after the instructions are obtained from the customer.

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



This question does not apply.

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

This question does not apply.

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

This question does not apply.

- **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

The relevant regulations do not involve the submission of proprietary trade secrets or other information to the Commission. The Commission notes, however, that it has procedures to protect the confidentiality of information submitted to it. 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 C.F.R. 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

*A Notice of Intent to Renew Collection 3038-0021: Regulations Governing Bankruptcies of Commodity Brokers* was published in the *Federal Register* on June 25, 2018 (Notice). See 83 FR 29547 (June 25, 2018). The Notice provided a 60-day period during which the public was

invited to comment on the information collection and the burdens imposed by it prior to submission to OMB. The Commission did not receive any relevant comments.

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years-even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

As noted above, a *Notice of Intent to Renew Collection 3038-0021: Regulations Governing Bankruptcies of Commodity Brokers* was published in the *Federal Register* on June 25, 2018 (Notice). See 83 FR 29547 (June 25, 2018). The Notice provided a 60-day period during which the public was invited to comment on the information collection and the burdens imposed by it. The Commission did not receive any relevant comments.

**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.**

This question does not apply. The Commission does not provide respondents with an assurance of confidentiality except as follows: The Commission fully complies with section 8(a)(1) of the CEA, which strictly prohibits the Commission, unless specifically authorized by the CEA, from making public “data and information that would separately disclose business transactions or market positions of any person and trade secrets and names of customers.” The Commission has procedures to protect the confidentiality of data. These are set forth in the Commissions’ regulations at part 145 through part 147 of the Code of Federal Regulations.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the**

**agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

This question does not apply. The relevant regulations do not request nor require the provision of sensitive information, as that term is used in Item 11.

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

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

See Attachment A. As set forth in Attachment A, the annual respondent burden for this information collection during the renewal period is estimated to be as follows:<sup>2</sup>

Reporting:<sup>3</sup>

Estimated Number of Respondents: 1

Estimated Annual Number of Responses per Respondent: 1.33

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<sup>2</sup> Because a commodity broker liquidation is estimated to occur only once every three years, the previous information collection, in many cases, expressed the burden of the reporting, recordkeeping, and third party disclosure requirements in terms of the burden applicable to “.33” respondents. For clarity, this notice expresses such burdens in terms of those that would be imposed on one respondent during the three year period. While the applicable burden is expressed in a different way, as noted above, the burden hours generally remain unchanged.

<sup>3</sup>The reporting requirements are contained in Commission regulations 190.02(a)(1), 190.02(a)(2), and 190.06(b).

Estimated Total Annual Number of Responses: 1.33  
Estimated Annual Number of Burden Hours per Respondent: 1.33  
Estimated Total Annual Burden Hours: 1.33  
Total Estimated Annual Burden Cost of All Responses: \$172.90  
Type of Respondents: Commodity brokers who have filed a petition in bankruptcy, Trustees, and self-regulatory organizations.  
Frequency of Collection: On occasion

Recordkeeping:<sup>4</sup>

Estimated Number of Respondents: 1  
Estimated Annual Number of Responses per Respondent: 26,666.67  
Estimated Total Annual Number of Responses: 26,666.67  
Estimated Annual Number of Burden Hours per Respondent: 333.33  
Estimated Total Annual Burden Hours: 333.33  
Total Estimated Annual Burden Cost of All Responses: \$43,332.90  
Type of Respondents: Trustees  
Frequency of Collection: Daily and on occasion

Third Party Disclosures Applicable to a Single Respondent:<sup>5</sup>

Estimated Number of Respondents: 1  
Estimated Annual Number of Responses per Respondent: 6,671.32  
Estimated Total Annual Number of Responses: 6,671.32  
Estimated Average Number of Burden Hours per Respondent: 1,034.63  
Estimated Total Annual Burden Hours: 1,034.63  
Total Estimated Annual Burden Cost of All Responses: \$134,501.90  
Type of Respondents: Trustees  
Frequency of Collection: On occasion

Third Party Disclosures Applicable to Multiple Respondents:<sup>6</sup>

Estimated Number of Respondents: 125  
Estimated Annual Number of Reports per Respondent: 2,000  
Estimated Total Annual Number of Responses: 250,000  
Estimated Average Number of Burden Hours per Respondent: 40

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<sup>4</sup> The recordkeeping requirements are contained in Commission regulations 190.03(a)(1), 190.03(a)(2), and 190.04(b).

<sup>5</sup> These third party disclosure requirements are contained in Commission regulations 190.02(b)(1), 190.02(b)(2), 190.02(b)(4), and 190.02(c).

<sup>6</sup> See fn. 1. The Commission is setting forth a new information collection under OMB Control No. 3038-0021 to separately account for third party disclosure requirements provided for in Commission regulations 190.06(d) and 190.06(c) which are applicable on a regular basis to multiple respondents (*i.e.*, multiple futures commission merchants).

Estimated Total Annual Burden Hours: 2,500  
Total Estimated Annual Burden Cost of All Responses: \$150,000  
Type of Respondents: Futures commission merchants  
Frequency of Collection: On occasion

With respect to the burden hour estimates for this information collection, the Commission notes that commodity broker liquidations occur at unpredictable and irregular intervals when particular commodity brokers become insolvent. While a commodity broker liquidation has not occurred in the past three years, the Commission took the conservative approach of maintaining the assumption contained in the previous renewal of this information collection that, on average, a commodity broker liquidation would occur every three years. The Commission generally has retained the burden hour estimates set forth in the previous information collection as there have been no interim experiences that would warrant altering those estimates.<sup>7</sup> The Commission further notes, however, that the information collection burden will vary in particular commodity broker liquidations depending upon the size of the commodity broker, the extent to which accounts are able to be quickly transferred, and other factors specific to the regulation.

With respect to the burden hour cost estimates, Commission regulations 190.06(d) and 190.10(c), respectively, require FCMs that meet the legal definition of a “commodity broker” to provide a notice and a disclosure statement to each of their new customers. Because such notices and disclosure are standardized, they likely would be prepared by clerical or non-managerial compliance personnel at an approximate compensation rate of \$30 per hour. Compliance with

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<sup>7</sup> The Commission has retained the burden hour estimates for the applicable regulations with two exceptions. First, the Commission no longer assigns burden hours to the discretionary notice that a Trustee may provide to customers in an involuntary commodity broker liquidation pursuant to Commission regulation 190.02(b)(3). There have been no involuntary commodity broker liquidations and none are anticipated. Accordingly, continuing to assign burden hours to this voluntary requirement would inappropriately inflate the burden hours of this information collection. Second, the Commission has reduced the burden hours assigned to the third party disclosure requirements that are applicable to multiple respondents (as set forth in Commission regulations 190.06(d) and 190.10(c)). The notice and disclosure required by these regulations, respectively, are standardized and unchanged from the prior renewal. Accordingly, the time that the average respondent would spend drafting and sending the notice and disclosure is minimal. The Commission further notes that, while it has reduced the burden hours assigned to the third party disclosure requirements, it has increased the per hour cost of compliance to more accurately reflect the hourly rate of the personnel that would be responsible for complying with the requirements.

the remaining requirements that are the subject of this subject of this information collection generally falls upon a Trustee appointed in a commodity broker liquidation who likely would procure legal, accounting or other staff to assist in fulfilling the obligations at an approximate rate of \$130 per hour.<sup>8</sup>

- 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 startup 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.**

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<sup>8</sup> For purposes of this information collection, the Commission used the salary information contained in the most recent *Report on Management and Professional Earnings in the Securities Industry* published by SIFMA (“SIFMA Earnings Report”). The approximate hourly compensation rates were derived by dividing the annual compensation of the relevant category of employee by 52 weeks per year, divided further by 40 hours per week. The compensation rate for a compliance specialist (\$63,000 per year, or \$30 per hour) was used for the calculations applicable to compliance with Commission regulations 190.06(d) and 190.10(c). The compensation rate for an attorney (\$269,664 per year or \$130 per hour) was used for the calculations applicable to compliance with all other regulations that are the subject of this information collection. The Commission took the conservative approach of using the high end of the salaries set forth in the SIFMA Earnings Report to account for potential increases since its publication. Accordingly, the estimated burden costs set forth herein are higher than those set forth in the previous information collection renewal.

There are estimated to be no capital costs or operating and maintenance costs associated with this information collection.<sup>9</sup>

- 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.**

With respect to the Commission, the costs associated with the reporting, recordkeeping, and disclosure requirements described herein are inseparable from the costs of running the bankruptcy program as a whole. There are no expenses that are exclusively attributable to the paperwork burden.

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

See response to Item 12. As noted therein, while a commodity broker liquidation has not occurred in the past three years, the Commission took the conservative approach of maintaining the assumption contained in the previous renewal of this information collection that, on average, a commodity broker liquidation would occur every three years. The Commission also has, with limited exception,<sup>10</sup> retained the burden hour estimates set forth in the previous information collection as there have been no interim experiences nor are there currently apparent circumstances that would warrant altering those estimates.

- 16. For collections 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.**

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<sup>9</sup> While the supporting statement for the prior renewal of this information collection accurately noted that “[t]here are estimated to be no capital costs or operating and maintenance costs associated with this collection,” the OMB cost inventory for the prior renewal erroneously listed annual operating and maintenance costs of \$147,128.

<sup>10</sup> See response to Item 12 at footnote 7.

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

### Supporting Statement for Regulations Governing Bankruptcies of Commodity Brokers OMB Control No. 3038-0021

Reporting: <sup>11</sup>

	1	2	3	4	5	6	7	8	9
	Est. No. of Respondents	Est. Annual Responses per Respondent	Est. Total Annual Responses (1x2)	Est. Avg. No. of Hours per Response	Est. Annual No. of Burden Hours per Respondent (2x4)	Est. Avg. Burden Hour Cost <sup>12</sup>	Est. Avg. Burden Cost per Respondent (5x6)	Est. Total Annual Burden Hours (1x5)	Total Est. Annual Burden Cost of All Responses (1x7)
190.02(a)(1)	1	.67	.67	.5	.34	\$130	\$44.20	.34	\$44.20
190.02(a)(2)	1	.33	.33	2	.66	\$130	\$85.80	.66	\$85.80
190.06(b)	1	.33	.33	1	.33	\$130	\$42.90	.33	\$42.90
<b>TOTAL</b>	1	1.33	1.33		1.33	\$130	\$172.90	1.33	\$172.90

Recordkeeping:

<sup>11</sup>Because a commodity broker liquidation is estimated to occur only once every three years, the previous information collection, in many cases, expressed the burden of the reporting, recordkeeping, and third party disclosure requirements in terms of the burden applicable to “.33” respondents. For clarity, this information collection expresses such burdens in terms of those that would be imposed on one respondent during the three year period. While the applicable burden is expressed in a different way, as noted above, the burden hours generally remain unchanged.

<sup>12</sup>As noted above, the Commission used the salary information contained in the most recent *Report on Management and Professional Earnings in the Securities Industry* published by SIFMA for purpose of calculating the burden costs associated with this information collection renewal. The approximate hourly compensation rates were derived by dividing the annual compensation of the relevant category of employee by 52 weeks per year, divided further by 40 hours per week. The compensation rate for a compliance specialist (\$63,000 per year or \$30 per hour) was used for the calculations applicable to compliance with Commission regulations 190.06(d) and 190.10(c). The compensation rate for an attorney (\$269,664 per year or \$130 per hour) was used for the calculations applicable to compliance with all other regulations that are the subject of this information collection. The Commission took the conservative approach of using the high end of the salaries set forth in the SIFMA Earnings Report to account for potential increases since its publication. Accordingly, the estimated burden costs set forth herein are higher than those set forth in the previous information collection renewal.

	1	2	3	4	5	6	7	8	9
	Est. No. of Respondents	Est. Annual Responses per Respondent	Est. Total Annual Responses (1x2)	Est. Avg. No. of Hours per Response	Est. Annual No. of Burden Hours per Respondent (2x4)	Est. Avg. Burden Hour Cost	Est. Avg. Burden Cost per Respondent (5x6)	Est. Total Annual Burden Hours (1x5)	Total Est. Annual Burden Cost of All Responses (1x7)
190.03(a)(1)	1	6,666.67	6,666.67	.01	66.67	\$130	\$8,667.10	66.67 <sup>13</sup>	\$8,667.10
190.03(a)(2)	1	6,666.67	6,666.67	.02	133.33	\$130	\$17,332.90	133.33	\$17,332.90
190.04(b)	1	13,333.33	13,333.33	.01	133.33	\$130	\$17,332.90	133.33	\$17,332.90
<b>TOTAL</b>	1	26,666.67	26,666.67		333.33	\$130	\$43,332.90	333.33	\$43,332.90

Third Party Disclosures Applicable to a Single Applicant:

	1	2	3	4	5	6	7	8	9
	Est. No. of Respondents	Est. Annual Responses per Respondent	Est. Total Annual Responses (1x2)	Est. Avg. No. of Hours per Response	Est. Annual No. of Burden Hours per Respondent (2x4)	Est. Avg. Burden Hour Cost	Est. Avg. Burden Cost per Respondent (5x6)	Est. Total Annual Burden Hours (1x5)	Total Est. Annual Burden Cost of All Responses (1x7)
190.02(b)(1)	1	1.33	1.33	1	1.33	\$130	\$172.90	1.33	\$172.90
190.02(b)(2)	1	3,333.33	3,333.33	.1	333.33	\$130	\$43,332.90	333.33	\$43,332.90
190.02(b)(3)	0 <sup>14</sup>	0	0	0	0	\$130	0	0	0
190.02(b)(4)	1	3,333.33	3,333.33	.2	666.67	\$130	\$86,667.10	666.67	\$86,667.10
190.02(c)	1	3.33	3.33	10	33.33	\$130	\$4,329.00	33.33	\$4,329.00
<b>TOTAL</b>	1	6,671.32	6,671.32		1,034.63	\$130	\$134,501.90	1,034.63	\$134,501.90

Third Party Disclosures Applicable to a Multiple Respondents:

	1	2	3	4	5	6	7	8	9
	Est. No. of Respondents	Est. Annual Responses per Respondent	Est. Total Annual Responses (1x2)	Est. Avg. No. of Hours per Response	Est. Annual No. of Burden Hours per Respondent (2x4)	Est. Avg. Burden Hour Cost	Est. Avg. Burden Cost per Respondent (5x6)	Est. Total Annual Burden Hours (1x5)	Total Est. Annual Burden Cost of All Responses (1x7)
190.06(d)	125	1,000	125,000	.02	20	\$30	\$600.00	2,500	\$75,000.00
190.10(c)	125	1,000	125,000	.02	20	\$30	\$600.00	2,500	\$75,000.00
<b>TOTAL</b>	125	2,000	250,000		40	\$30	\$1,200.00	5,000	\$150,000.00

<sup>13</sup> The prior 60-day notice of intent to renew the information collection, published in 2015, incorrectly listed the total annual burden hours associated with Commission regulation 190.03(a)(1) as .66 instead of 66.67. The error has been corrected in Appendix A. The error in the 2015 publication is inconsequential because the variables used to calculate the total annual burden hours were published correctly.

<sup>14</sup>The Commission no longer assigns burden hours to the discretionary notice that a Trustee may provide to customers in an involuntary commodity broker liquidation pursuant to Commission regulation 190.02(b)(3). There have been no involuntary commodity broker liquidations and none are anticipated. Accordingly, continuing to assign burden hours to this voluntary requirement would inappropriately inflate the burden hours of this information collection.