

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

Reparations Complaint, CFTC Form 30

**OMB CONTROL NUMBER 3038 -XXXX**

### **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.**

Since 1984, the Commodity Futures Trading Commission (Commission) has utilized a standard form, CFTC Form 30 (Form 30), to obtain information from members of the public that wish to file a Reparations complaint pursuant to Section 14 of the Commodity Exchange Act (Act), 7 U.S.C. 18. The legislative intent of the Reparations program was to provide a low-cost, speedy, and effective forum for the resolution of customer complaints and to sanction individuals and firms found to have violated the Act and/or any regulations.

Pursuant to Section 14(b) of the Act, Congress provided the Commission with authority to promulgate rules necessary to administer the Reparations program. In 1984, the Commission promulgated Part 12 of the Commission regulations to administer Section 14. Rule 12.13 provides the standards and procedures for filing a Reparations complaint. Specifically, subparagraph (b) describes the form and content requirements of a complaint. Form 30 mirrors the requirements set forth in subparagraph (b).

Form 30 was created to assist customers, who are typically *pro se* and non-lawyers. It was also designed as a way to give proper notice to respondents of the charges against them. The purpose of Reparations is to provide a low-cost, efficient, and effective forum to resolve private disputes involving potential violations of the Act and/or Regulations. This form is critical to fulfilling this policy goal. Accordingly, the Commission is requesting an OMB control number to continue use Form 30.

- 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.**

Commission staff uses this information to assess whether the complainant has met the threshold standards for applying for a Reparations award and to put the respondents on notice of the charges. If the complaint meets the threshold standards, respondents may use the information to submit a proper response to the complaint.

- 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.**

Persons interested in applying for a Reparations award are typically emailed a link to the complaint form, which is maintained on the CFTC's public website. Rule 12.13(b)(3) provides for three methods of filing a complaint: (1) in person, during normal business hours, (2) by certified mail, or (3) by registered mail with return receipt requested.

- 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.**

Each complaint is unique to the facts and circumstances of each applicant, so no two complaints are the same. Moreover, given the personal and private nature of this information, Commission staff may only obtain this information from the complainants or their representatives.

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

Most complainants are individuals so this question does not apply. Accordingly, there would be little to no economic impact on these entities.

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

The inability to utilize a standard form will adversely impact the Commission's ability to obtain the relevant information necessary to process Reparations applications. This will also impact the ability of many *pro se* non-lawyer applicants' ability to submit the necessary information in a timely and efficient manner. This could also impact the respondents' ability to understand the natures of charges against them and thus impact their ability to file an appropriate response.

- 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:**

This question does not apply.

- **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;**

This question does not apply.

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

This question does not apply.

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

This question does not apply.

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

This question does not apply.

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

The Commission has procedures to protect the confidentiality of 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.**

**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).**

The Commission affirmatively sought comments on the extension of information collection requirements described herein. A copy of the *Federal Register* notice soliciting comments on this collection (82 Fed. Reg. 41614, September 1, 2017) is attached. The Commission received no 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 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.**

This question does not apply.

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

This question does not apply. The Commission has neither considered nor has it made any payment or gift to any Reparations applicant.

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

There are no assurances of confidentiality provided to applicants. 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 CEA, which strictly prohibits the Commission, unless specifically authorized by the CEA, 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 a respondent’s data set forth in part 145 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. Form 30 does not request or require the provision of sensitive information, as that term is used in Item 11.

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

- **Indicate the number of respondents, frequency of response, annual hour burden and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than ten) of potential respondents is desirable. If the hour burden on respondents is**

expected to vary widely because of differences in activity, size or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- **If the request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 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.**

The Commission staff estimates that the average person with no professional legal assistance will incur between one half hour to two hours of burden to gather the necessary documents and respond to the complaint. The Commission estimates that 15 persons will make one response annually for an average of 15 responses. Each response is estimated to take approximately 1.5 hours for a total annual burden of approximately 22.5 hours.

The cost estimate for the average complainant represented by competent counsel (6-7 years of relevant experience) would be approximately \$498.<sup>1</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 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**

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<sup>1</sup> Based on fee schedule devised by United States Attorney's Office for 2015-2016- \$332 per hour for an attorney with 6-7 years of experience (\$332/hr x 1.5hrs).

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.

The proposed collection involves no new start-up or operations and maintenance costs.

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

It is not anticipated that this collection 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.

Not applicable.

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.

Not applicable.

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.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

Not applicable.

## Attachment A

### OMB Control Number 3038-XXXX – Reparations Complaint, CFTC Form 30.

#### Reporting Burden

Regulation	Estimated Number of Respondents <sup>2</sup>	Reports by Each Respondent	Total Annual Responses	Estimated Average Number of Hours per Response	Estimated Total Annual Number of Hours	Cost per response <sup>3</sup>	Total Annual cost of all responses <sup>4</sup>
12.13	15	1	15	1.5hrs	22.5	\$498	\$7,470

<sup>2</sup> Based on the average number of Reparations complaints for the past 3 fiscal years ((12)FY14, (13)FY15, and (19)FY16)  $([12+13+19]/3 = 14.6)$ .

<sup>3</sup> Based on fee schedule devised by United States Attorney’s Office for 2015-2016- \$332 per hour for an attorney with 6-7 years of experience  $(\$332/\text{hr} \times 1.5\text{hrs})$ .

<sup>4</sup> This total is calculated by multiplying the estimated average number of complaints per year by the estimated cost per response  $(15 \times \$498)$ .