

# SUPPORTING STATEMENT FOR NEW AND REVISED INFORMATION COLLECTIONS

OMB CONTROL NUMBER 3038-0070

Amendments to the Commission's Regulations Related to Real-Time Public Reporting and Block Trades

## 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.**

Section 2(a)(13) of the CEA directs the Commission to establish certain standards for the real-time public reporting of swap transaction and pricing data. The Commission established these regulations in Part 43 of the Commission's regulations. The regulations govern topics including reporting, public dissemination, and timestamping requirements for swap execution facilities ("SEFs"), designated contract markets ("DCMs"), swap data repositories ("SDRs"), derivatives clearing organizations ("DCOs"), swap dealers ("SDs"), major swap participants ("MSPs"), and non-SD/MSP/DCO counterparties.

The Commission is adopting amendments to Part 43 to streamline reporting requirements and clarify and update certain provisions.<sup>1</sup> Some information collections discussed in existing Information Collection 3038-0070 will not be impacted by the revisions, and the Commission is not revising the estimated burdens associated with those collections. The Commission does not believe the rule amendments as adopted impose any other new collections of information that require approval of OMB under the PRA.

The revised information collections will affect SDRs, SEFs, DCMs, and reporting counterparties that report swap data for SDRs to publicly disseminate to provide price transparency as directed by Congress in the CEA. Together, these revisions and additions are intended to improve real-time public reporting for reporting counterparties, SEFs, DCMs, SDRs, and market participants that use real-time public data. All of the amendments described below are reflected in Attachment A. The Commission is adding or modifying information collections for the following regulations:

- Existing § 43.3 requires reporting counterparties to send swap reports to SDRs as soon as technologically practicable after execution. The Commission is amending § 43.3 to establish new requirements for post-priced swaps in § 43.3(a)(4). The amendments to § 43.3 will give reporting counterparties more time to report post-priced swaps to SDRs. Currently, some entities report post-priced swaps using a placeholder price, and then send

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<sup>1</sup> The Commission proposed the amendments to Part 43 in February 2020. See Real-Time Public Reporting Requirements, 85 FR 21516 (Apr. 17, 2020). The Commission is amending the estimates provided in the supporting statement for the proposal in this supporting statement. We are requesting comments on estimates that were not included in the proposal in a separate 60-day notice.

a swap report later amending the price. Those entities are expected to experience a reduction in the number of swap reports they are required to send pursuant to amended § 43.3.

- Existing § 43.3 sets out the requirements for counterparties to report swap transaction and pricing data to SDRs for public dissemination. Existing § 43.3 does not account for DCOs in the hierarchy of entities required to report to SDRs. The Commission is adding DCOs to the hierarchy in § 43.3(a)(5). This is a new requirement for DCOs to send swap transaction and pricing data reports to SDRs, to the extent they are not currently required to do so. However, recognizing considerations related to the importance of DCOs keeping swap reports confidential to manage the defaults of clearing members, the Commission ultimately finalized rules exempting these swaps from public reporting.
- Existing § 43.3 requires reporting counterparties to send swap reports to SDRs as soon as technologically practicable after execution. The Commission is amending § 43.3 to establish new requirements for reporting prime brokerage swaps in § 43.3(a)(6). The rules will establish that “mirror swaps” will not need to be publicly disseminated by SDRs. Reporting counterparties will continue to report mirror swaps to SDRs pursuant to part 45, but the amendment to § 43.3 will reduce the number of reports SDRs will be required to publicly disseminate according to § 43.4.
- Existing § 43.3(h) requires timestamping by multiple entities. Existing § 43.4(h)(1) requires registered entities, SDs, and MSPs to timestamp real-time swap reports with the time they receive the data from counterparties, as applicable, and the time at which they transmit the report to an SDR. Existing § 43.3(h)(2) requires SDRs to timestamp the swap reports they receive from SEFs, DCMs, and reporting parties, and then timestamp the report with the time they publicly disseminate it. Existing § 43.3(h)(3) requires SDs and MSPs have to timestamp all off-facility swaps they report to SDRs. § 43.3(h)(4) requires all entities have recordkeeping requirements with respect to these timestamps. The Commission is eliminating these requirements. Removing § 43.3(h)(1) will reduce the amount of time SDs, MSPs, and registered entities spend reporting swap reports to SDRs, but will not amend the number of reports they send. Removing § 43.3(h)(2) will reduce the amount of time SDRs spend publicly disseminating swap reports, but will not amend the number of reports they send. Removing § 43.3(h)(3) will reduce the amount of time SDs and MSPs spend reporting off-facility swaps to SDRs, but will not reduce the amount of reports they send. Finally, removing § 43.3(h)(4) will remove the recordkeeping burden for these entities.

**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 Commission’s regulations in part 43 require SEFs, DCMs, and reporting counterparties to report swap transaction and pricing data to SDRs and require SDRs to disseminate the swap transaction and pricing data to the public. The SDRs do not provide this data to the Commission directly. The Commission may, however, use the swap transaction and pricing data in connection with fulfilling any of its regulatory duties or for other purposes. This

publicly-reported data is also available to all other regulators and to the public and they may use it for any purpose as they see fit. The swap transaction and pricing data is made public in order to increase the transparency of the swaps market for regulators and market participants.

- 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.**

All of the information collections within Information Collection 3038-0070 involve the use of electronic collection protocols. All required data submissions to the Commission must be electronic.

- 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 information collected pursuant to part 43 of the Commission's regulations is not already collected by the Commission or other regulator for any other purpose and is not publicly available through another source. The swap transaction and pricing data is unique and no other similar information is available. There are no other existing regulations that could be modified to serve a similar purpose in any practical way.

- 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 Commission has previously established that DCMs, DCOs, MSPs, SDs, SDRs, and SEFs are not small entities. In addition, based on its review of publicly available data, the Commission believes that the overwhelming majority of non-SD/MSP/DCO reporting counterparties affected by this rulemaking are eligible contract participants ("ECPs") that the Commission has previously determined are not small entities or do not otherwise meet the definition of "small entity." Accordingly, the Commission does not believe that this collection of information will affect a substantial number of small 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 public reporting requirements make swap transaction and pricing data available to the public in order to enhance price discovery and market transparency. Without the required frequency of reporting set forth in the Commission's regulations, the general public would not receive swap transaction and pricing data in a timely manner that would allow for meaningful price discovery, which would frustrate the purpose of the statute.

- 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;**

Real-time swap transaction and pricing data is not required to be reported to the Commission.

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

This does not apply.

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

Not applicable, respondents are not required to submit more than an original and two copies of any document.

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

Currently § 43.3(h)(4) requires registered entities, SDs, and MSPs to maintain records with respect to timestamps for at least five years from the execution of the publicly reportable swap transaction. The amendments to part 43 will modify Information Collection 3038-0070 by removing the recordkeeping burden for these entities. Other Commission regulations, including §§ 1.31, 45.2, and 49.12, would require records, including much of the information provided under Information Collection 3038-0070, to be kept for at least five years. Those recordkeeping requirements are discussed in the information collections for those other regulations.

- **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, the collection is not connected or related to any statistical survey.

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

Not applicable, the collection does not involve the use of any statistical data classification.

- **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**

Not applicable, the collection does not include any pledges of confidentiality that are not supported by authority established in statute or regulation.

- **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.**

All requirements to submit proprietary or other confidential information are subject to the Commission's existing statutory, regulatory, and procedural requirements to protect the confidentiality of such information. This includes the requirements of sections 8(a) and 21(c)(6) of the Act as well as in §§ 43.4, 49.16, 49.17, and 49.18, and parts 145 and 147 of the Commission's regulations. Most information required to be collected or reported under Information Collection 3038-0070 is made public.

- 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.**

As part of the rulemaking process, the amendments were published in the *Federal Register* at 85 FR 22690 (Apr. 17, 2020). Thus, members of the public, including respondents, have been provided an opportunity to comment on the rule and related matters, including issues and other paperwork burdens. The Commission did not receive any comments on the information collection.<sup>2</sup>

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

Not applicable, no payment or gift will be provided to respondents.

- 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. All requirements in the collection to submit proprietary or other confidential information are subject to the Commission's existing statutory, regulatory, and procedural requirements to protect the confidentiality of such information. This includes the requirements of sections 8(a) and 21(c)(6) of the Act as well as in §§ 43.4, 49.16, 49.17, and 49.18, and parts 145 and 147 of the Commission's regulations. Most information required to be collected or reported under Information Collection 3038-0070 is made public.

- 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**

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<sup>2</sup> The Commission is publishing a 60-day notice ("60-day Notice") in the *Federal Register* at the same time as publication of this final rule in order to solicit comment on burden estimates for part 43 that were not included in the proposal.

**information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

Not applicable, the collection does not involve any questions of a sensitive nature, as the term is used in this question.

**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.**

Please see Attachment A for the estimated hour burden for the collections of information discussed in this supporting statement. As shown on Attachment A, the aggregate burden for all of the collections of information under OMB 3038-0070 (whether or not affected by the amendments) is estimated to apply to 1,732 respondents, which will file an estimated 10,020,842 reports annually, or an average 5,786 reports per respondent. The estimated gross annual reporting burden for information collection 3038-0070 will be 771,831 burden hours across all respondents.<sup>3</sup>

The total annual burden hour cost of all responses across respondents is estimated to be \$55,749,360. In calculating the annualized cost to respondents for the hour burdens for the collections of information, the Commission estimates the appropriate wage rate based on salary information for the securities industry compiled by the Department of Labor's Bureau of Labor Statistics ("BLS"). Commission staff arrived at an hourly rate of \$72.23 using figures from a weighted average of salaries and bonuses across different professions contained in the most recent BLS Occupational Employment and Wages Report (May 2018) multiplied by 1.3 to

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<sup>3</sup> Attachment A to the supporting statement for the proposed rule only showed the changes in the burden estimates for § 43.3 and § 43.4 for the proposed rule. For the final rule, the Commission has revised Attachment A to this supporting statement to include aggregate burden estimates for all requirements in the collection.

account for overhead and other benefits. The Commission estimated appropriate wage rate is a weighted national average of mean hourly wages for the following occupations (and their relative weight): “computer programmer – industry: securities, commodity contracts, and other financial investment and related activities” (50% weight); “compliance officer – industry: securities, commodity contracts, and other financial investment and related activities” (25%); and “lawyer – legal services” (25%). Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collection of information.

Additional detail regarding the burden estimates for each regulatory requirement affected by the final rule is provided below. As an initial matter, as described in note 1 to Attachment A, the Commission is correcting its current estimates for § 43.3 and § 43.4 (real-time public reporting). The Commission had previously estimated the total real-time public reporting burden as 521,644 hours across 872 respondents for a total estimated cost of \$65,828,142.

In coming to that estimate, the Commission over-estimated the number of SEFs, DCMs, and SDRs, but under-estimated the number of non-SD/MSP reporting counterparties. The Commission is revising those estimates based on there being 103 SDs/MSPs, 24 SEFs, 3 DCMs, and 1,585 non-SD/MSP reporting counterparties. The Commission also previously used \$140 as the estimated average burden hour cost. The Commission is revising that estimate based on an average burden hour cost of \$72.23.

Prior to making adjustments to the burden estimates pursuant to the final rule, the Commission is revising the estimate for the number of responses per respondent for § 43.3 and § 43.4. The previous supporting statement did not estimate the number of responses per respondent for real-time public reporting. The Commission is updating the estimates for § 43.3 and § 43.4 to reflect that the Commission estimates that there are approximately 4.5 million reports sent to, and publicly disseminated by, SDRs. Additionally, the Commission did not previously distinguish between the separate requirements in § 43.3 and § 43.4. The Commission has revised the estimate above to separate the two requirements by regulation.

The burden estimates for § 43.3 relate to the burden for the reports SEFs, DCMs, and reporting counterparties send to SDRs, and the § 43.4 estimates relate to the burden for the reports SDRs publicly disseminate. As revised to correct for previous errors (and before applying the amendments made in the final rule), the estimate for § 43.3 would be 1,715 respondents, with 3,000 reports per respondent, at .15 hours per response for 771,750 total burden hours annually. Additionally, as revised to correct for previous errors (and before applying the amendments made in the final rule), the estimate for § 43.4 would be 3 SDR respondents, with 1.5 million reports per respondent, at .01 hours per report for 45,000 total burden hours annually. Further amendments to these estimates based on the amendments to § 43.3 and § 43.4 in the final rule are discussed below:

- § 43.3 – The Commission is amending § 43.3, which requires SEFs, DCMs, and reporting counterparties to report data to SDRs when entering into new swaps, or making certain changes to swaps, for SDRs to publicly disseminate, as summarized below:

- o The Commission’s previous estimate for § 43.3 is that 1,715 respondents each report 3,000 swap reports annually to SDRs, for a total of 5,145,000 swap reports sent to SDRs.<sup>4</sup> The Commission estimates that the new regulations adopted in § 43.3(a)(4) will reduce the number of responses for 50 respondents by 5,000 responses (100 responses each).<sup>5</sup> The reduction of approximately 5,000 responses across 1,729<sup>6</sup> respondents will reduce the current estimate of 3,000 reports by each respondent to 2,998 reports per respondent. The Commission has updated the rest of the estimates for § 43.3 based on this change accordingly, resulting in a new aggregate hourly burden of 725,696 from the current estimate of 771,750.
- o The Commission is establishing new requirements for reporting prime brokerage swaps in § 43.3(a)(6). The final rule establishes that “mirror swaps” will not need to be publicly disseminated by SDRs. Reporting counterparties will continue to report mirror swaps to SDRs pursuant to part 45, but the amendment to § 43.3 will reduce the number of reports that SDRs will be required to publicly disseminate according to § 43.4. The Commission estimates that the amendments will reduce the number of mirror swaps SDRs will need to publicly disseminate pursuant to § 43.4 by 100 reports per each SDR, or 300 reports in the aggregate.
- o The Commission currently estimates the average number of burden hours per response for § 43.3 as .15 hours. The Commission estimates that the removal of the requirement for reporting entities to timestamp their swap reports under § 43.3(h) will reduce the amount of time entities need to spend on each report by .01 hours per report, to .14 hours per report.
- o The Commission estimates that SDRs currently spend .01 hours publicly disseminating each swap report. The amendments to § 43.3(h)(2) will no longer require SDRs to publicly disseminate certain timestamps in each report under § 43.4. The Commission estimates this will reduce the amount of time SDRs spend on each report by .001 hours, resulting in a new estimate of .009 hours per report for § 43.4.

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<sup>4</sup> The number of swap reports being sent to SDRs is estimated to be higher than the number of reports publicly disseminated by SDRs to account for reports that are not publicly disseminated due to errors that require resubmission by the counterparties.

<sup>5</sup> The Commission is amending § 43.3(a)(4) to allow reporting counterparties more time to report post-priced swaps to SDRs. Currently, some entities report post-priced swaps using a placeholder price, and then send a swap report later amending the price. Those entities will experience a reduction in the number of swap reports they are required to send pursuant to § 43.3 under the final rule. The Commission estimates 50 SD/MSP reporting counterparties will reduce the number of post-priced swaps reports they report to SDRs by 100 reports per respondent annually, or 5,000 reports in the aggregate, for aggregate burden hours of 50 hours.

<sup>6</sup> The Commission is increasing the number of respondents for § 43.3 from 1,715 to 1,729 to reflect the addition of 14 DCOs as reporting counterparties. Since DCOs have been exempted from the reporting requirements, however, it will not add or reduce the number of swap reports or impact the amount of time spent per report.

- In addition, removing § 43.3(h)(4) will remove the recordkeeping burden for these entities. As shown in Attachment A, this will remove the current recordkeeping burden of 5,854 aggregate hours from the collection.
- Taking all of the changes to § 43.3 into account, the Commission estimates that under § 43.3, as amended, 1,729 respondents will file 2,998 reports annually with an average of 0.14 burden hours per report, or an aggregate of 725,696 burden hours across all registrants.
- § 43.4 - As discussed above, the Commission had not previously estimated the burden for each of the regulatory requirements in §§ 43.3 and 43.4 separately. Now, the Commission is providing a separate estimate for the three SDRs that are required to publicly disseminate swap reports under § 43.4, in light of the amendments to § 43.4. The previous estimate was that 3 SDRs currently file 1,500,000 reports at an average of .01 hours per report, or 45,000 aggregate burden hours for all 3 respondents, under § 43.4. As amended, the Commission is estimating that 3 SDRs will file 1,499,900 reports per respondent at an average of .009 hours per report, or 40,497 aggregate burden hours for the 3 respondents.
- § 43.6 - The Commission is updating its estimate of the total burden hours and burden hour costs related to block trading that was included in the estimates for the real-time public reporting rule. The Commission's current PRA estimates, which reflect that 2,250 reporting counterparties file an average 110 reports annually per respondent, with an estimated burden of 0.0167 hours per response, and an aggregate 5,250 burden hours, is being updated. Applying the revised hourly cost estimate of \$72.23 and adjusting the number of respondents, the updated PRA burden estimates are 1,688 respondents filing an average 200 reports annually per respondent, with an estimated burden of 0.0167 hours per response, and an aggregate 5,638 burden hours.<sup>7</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**

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<sup>7</sup> The Commission is not revising its burden hour estimates for its separate block trade regulation. See Procedures To Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades (May 31, 2013), 78 FR 32866, at nn.528 and 531.

**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.**

For the proposal, the Commission did not expect that the changes to part 43 would result in any start-up or maintenance costs for respondents.

However, for the final rule, the Commission recognized SEFs, DCMs, SDRs, and reporting counterparties would incur costs to modify their reporting systems and maintain them going forward to adopt the changes to § 43.3<sup>8</sup> in the final rules.

In the final rule, the Commission estimated the cost for a reporting entity, including DCMs, DCOs, MSPs, non-SD/MSPs, SDs, and SEFs, to modify their systems and maintain those modifications going forward to adopt the final rules could range from \$24,000 to \$74,000 per entity.<sup>9</sup> As described in the final rule, the estimated cost range is based on a number of assumptions that cover tasks required to design, test, and implement an updated data system based on the new swap data elements contained in part 43.

In the final rule, the Commission further estimated that the cost for an SDR to modify their systems, including their data reporting, ingestion, and validation systems, and maintain those modifications going forward may range from \$144,000 to \$510,000 per SDR. There are currently three SDRs, for an estimated total cost of \$981,000.

The Commission is soliciting additional comments on the revised burden estimates for part 43, including the estimated costs related to the modification or maintenance of systems in

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<sup>8</sup> The Commission did not include any burden estimates in the final rule related to the modification or maintenance of systems in order to be in compliance with the amendments to § 43.4. To avoid double-counting, the Commission included the costs associated with updates to § 43.4 in the estimates for § 43.3, as they would be captured in the costs of updating systems based on the list of swap data elements in part 43. As noted below, the Commission is soliciting comments on the revised burden estimates for part 43 that are being adopted in the final rule.

<sup>9</sup> Based on the Commission's eight years of experience in administering the existing-real time reporting regulation, the Commission believes that the costs to reporting entities to implement the final rule will be on the lower end of the range, closer to \$24,000 than to \$74,000.

order to be in compliance with the amendments to § 43.3 that are being adopted in the final rule, in a separate 60-day notice being published in the Federal Register.

The total capital/start-up costs for § 43.3 are shown in the table in Attachment B.

- 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 does not anticipate that the changes will require additional staff time or technology resources beyond what is already dedicated to this collection, as discussed in previous filings related to Information Collection 3038-0070.

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

As discussed above, the Commission is amending part 43 of the Commission's regulations in order to improve the quality of swaps transaction and pricing data available to the public as well as to streamline regulatory requirements governing data reporting. This supporting statement discusses adjustments to burden hours calculations for Information Collection 3038-0070 to account for modified and new burdens associated with the changes to the regulation. The Commission is also updating the overall burden hours, collection volumes, and costs related to Information Collection 3038-0070, based on updated information related to other collections within Information Collection 3038-0070 that are not being modified by the final rule. For example, the Commission is updating the estimated numbers of each type of entity affected by this collection to accurately reflect the current number of each type of entity. This includes 24 SEFs (previously 25), 3 DCMs that allow execution of swaps (previously 15), 3 SDRs (previously 4), 14 DCOs that clear swaps (not previously included), 103 SDs/MSPs (previously 125), and 1585 non-SD/non-MSP reporting counterparties (previously 703).

- 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, the results of this collection of information are not planned to be published for statistical use.

- 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, the Commission is not seeking such approval for this publication.

- 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, there are no exceptions.

## Attachment A

### Amendments to OMB Control Number 3038-0070 Real-Time Public Reporting and Block Trades

#### Reporting Burden

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	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)
43.3 <sup>1</sup>	1,729 SEFs, DCMs, and Reporting Counterparties <sup>2</sup>	2,998 <sup>3</sup>	0.14 <sup>4</sup>	419.72	\$ 72.23	\$ 30,316.38	5,183,542	725,696	\$ 52,417,013
43.4 <sup>5</sup>	3 SDRs	1,499,900 <sup>6</sup>	0.009 <sup>7</sup>	13,499.10	\$ 72.23	\$ 975,040	4,499,700	40,497	\$ 2,925,120
43.6 <sup>8</sup>	1,688 Reporting Counterparties	200	0.0167	3.34	\$ 72.23	\$ 241.25	337,600	5,638	\$ 407,227
New Reporting Total	1,732 SEFs, DCMs, SDRs, and Reporting Counterparties						10,020,842	771,831	\$ 55,749,360
New Recordkeeping <sup>9</sup> and Reporting Total	1,732 SEFs, DCMs, SDRs, and Reporting Counterparties						10,020,842	771,831	\$ 55,749,360

## Attachment B

### Capital/Start-Up Costs

Regulation	Capital/Start-Up Costs
43.3	\$ 85,849,000 <sup>10</sup>

<sup>1</sup> The Commission had previously estimated the total real-time public reporting burden for both § 43.3 and § 43.4 to be 521,644 hours across 872 respondents for a total estimated cost of \$65,828,142. In coming to that estimate, the Commission over-estimated the number of SEFs, DCMs, and SDRs, but under-estimated the number of non-SD/MSP reporting counterparties. The Commission is revising those estimates based on there being 103 SDs/MSPs, 24 SEFs, 3 DCMs, and 1,585 non-SD/MSP reporting counterparties. The Commission also previously used \$140 as the estimated average burden hour cost. The Commission is revising that estimate based on an average burden hour cost of \$72.23. Finally, the Commission did not previously distinguish between the separate requirements in § 43.3 and § 43.4. The Commission has revised the estimate above to break out the two separate requirements by regulation. The PRA estimate for § 43.3 would therefore estimate the burden for the reports SEFs, DCMs, and reporting counterparties send to SDRs, and the PRA estimate for § 43.4 would estimate the burden for the reports SDRs publicly disseminate. As revised (and before applying the amendments made in the final rule), the estimate for § 43.3 would be 1,715 respondents, with 3,000 reports per respondent, at .15 hours per response at 771,750 total burden hours annually. Further amendments to this estimate based on the amendments to § 43.3 being adopted in the final rule are discussed in Item 12 above and are reflected in the above table and related footnotes.

<sup>2</sup> The Commission is increasing the number of respondents for § 43.3 from 1,715 to 1,729 to reflect the addition of 14 DCOs as reporting counterparties. Since DCOs have been exempted from the reporting requirements, however, it will not add or reduce the number of swap reports or impact the amount of time spent per report.

<sup>3</sup> The Commission estimates that there are 4,500,000 publicly-reportable swap transactions reported to, and publicly disseminated by, SDRs annually. As a result, the Commission's previous estimate for § 43.3 was that the 1,715 respondents each report 3,000 swap reports to SDRs. The Commission estimates that the new regulations in § 43.3(a)(4) will reduce the number of responses for 50 respondents by 5,000 responses (100 responses each). The reduction of approximately 5,000 responses across 1,715 respondents is estimated to reduce the current estimate of 3,000 reports by each respondent to 2,997.085 reports per respondent. The Commission has updated the rest of the estimate for § 43.3 based on this change accordingly.

<sup>4</sup> The Commission currently estimates the average number of burden hours per response for § 43.3 as .15 hours. The Commission estimates that the removal of the requirement for reporting entities to timestamp their swap reports will reduce the amount of time entities need to spend on each report by .01 hours per report, to .14 hours per report. The Commission is updating the rest of the estimate accordingly. The PRA section in the adopting release incorrectly reported the burden hours per response for § 43.3 as .067 hours, but as this was a typographical error, the correct number is included above and will be included in a separate 60-day notice that is being published in the Federal Register concurrently with publication of the final rule.

<sup>5</sup> As discussed in note 1, the Commission had not previously estimated the burden for each of the regulatory requirements in §§ 43.3 and 43.4 separately. Now, the Commission is revising the estimate for § 43.4 separately. § 43.4 requires SDRs to publicly disseminate swap reports. The Commission is estimating the burden for the three SDRs separately, in light of the amendments to § 43.4.

<sup>6</sup> The Commission estimates that SDRs publicly disseminate 4,500,000 swap reports annually. However, the amendments to § 43.3(a)(6) will reduce the number of reports SDRs have to publicly disseminate by no longer requiring SDRs to publicly disseminate mirror swaps. The Commission estimates this will reduce the number of reports SDRs need to publicly disseminate by 100 swap reports per SDR, bringing the new estimate to 1,499,900 reports per SDR. The Commission is revising the rest of the estimate accordingly.

<sup>7</sup> The Commission estimates that SDRs currently spend .01 hours publicly disseminating each swap report. The amendments to § 43.4(h)(2) will no longer require SDRs to publicly disseminate certain timestamps in each report. The Commission estimates this will reduce the amount of time SDRs spend on each report by .001 hours, resulting in a new estimate of .009 hours per report. The Commission is revising the rest of the estimate accordingly.

<sup>8</sup> The Commission had previously separately estimated the burden for § 43.6 to be \$739,883 for 2,250 SD, MSP, and non-SD/MSP reporting counterparties with a total of 247,500 annual responses and 5,250 estimated annual burden hours. The Commission is not revising its burden hour estimates for its block trade regulation, but is updating its estimate of the total burden hour cost of all responses based on an hourly cost estimate of \$72.23 instead of the previous estimate of \$140.93, as well as 1,688 respondents (1,585 non-SD/MSP counterparties plus 103 SDs/MSPs) instead of 2,250. The Commission is updating the rest of the estimate accordingly. The result is an adjustment to the total number of annual responses to 337,600 from 247,500, with an adjustment of 5,638 burden hours from the prior estimated annual burden of 5,250 hours, and, but a reduction in the total annual burden hour cost from \$ 739,883 to \$ 407,227.

<sup>9</sup> The Commission had previously estimated the recordkeeping total for § 43.4(h) to be 5,854 hours. The Commission is removing the requirement to keep records of timestamps in § 43.4(h). The Commission is accordingly removing the recordkeeping burden for § 43.4(h) from this information collection.

<sup>10</sup> Since the Commission cannot enter a range of estimates, the Commission has averaged its estimates of (i) \$24,000 to \$74,000 as \$49,000 for the 1,732 reporting entities, for a total of \$84,868,000 (\$49,000 \* 1,732 reporting entities). As

discussed above, although the Commission used an arithmetic average to estimate the total costs for reporting entities, based on its eight years of experience administering the existing real-time reporting regulation, the Commission believes the costs will be at the lower end of the estimated range. The total estimated costs of \$85,849,000 also include an estimated additional \$981,000 for the three SDRs to modify and maintain their systems, including their data reporting, ingestion, and validation systems, based on a range from \$144,000 to \$510,000 per SDR (average estimate per SDR of  $\$327,000 * 3 = \$981,000$ ).