

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

Futures Volume, Open Interest, Price, Deliveries, and Exchanges of Futures

**OMB CONTROL NUMBER 3038-0012**

- 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 4g of the Commodity Exchange Act requires contract markets to make public the daily volume of trading on each type of contract and such other information as the Commission deems necessary in the public interest and prescribes by rule, order or regulation 7 U.S.C. §6g(5). The Commission has determined that in addition to volume of trading, it is in the public interest and necessary for market surveillance that exchanges publish the following market information:

1. Trading volume and open contracts;
2. Price information;
3. Critical dates;
4. Delivery notices issued and stopped; and
5. Delta factors

- 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 collected information is used by the trading public, futures industry researchers, and the Commission to analyze the commodity futures, swaps and option marketplace. The information is received from each exchange on a daily basis in conjunction with other data collected by the Commission to support one of the agency's core missions of determining the potential for market disturbances and distortions. Additionally, commission market analysts and researchers use this data on a frequent basis for its surveillance program, market briefings and research projects. Finally, the Commission also routinely incorporates select data from this collection into its public reports.

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

The collection information is submitted electronically through links to the Commission's databases and information systems.

- 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 Commission's reporting rules are partially duplicative of the reporting requirements of the regulated markets. It must be noted that the Commission, and the regulated markets, each have separate statutory mandates to establish and operate comprehensive data collection programs for surveillance and market information. Although partially duplicative of the efforts of the regulated markets, the Commission's surveillance programs; as instituted pursuant to the reporting rules permits the Commission, among other things, to independently set data reporting requirements, and surveil the activities of traders and market information across different markets on a daily basis.

Upon review, no collection information appears to be neither fully duplicated nor able to be replicated upon modification. In view of this, the Commission has determined to maintain an independent reporting framework.

- 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 information collection does not involve small organizations.

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

The Commission would not be able to carry out its oversight or intelligence responsibilities for these markets. The collection requirements are essential to the Commission's mission as mandated by the Commodity Exchange Act. Commodity markets require surveillance on a daily basis to not only ensure well-functioning markets; but also to prevent and deter situations such as attempted manipulations or other significant market events, which tend to develop rapidly. Adequate surveillance and timely market briefings or analysis would be impossible if position reports were received on less than a daily basis.

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

- **Requiring respondents to report information to the agency more often than quarterly.**

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

In order to adequately conduct market surveillance, our market and large trader reporting rules collect information on a daily basis, and when necessary, upon special call (upon the request of the Commission). The Commission regulates the trading of commodity futures and options contracts that impact a vast array of commodity prices vital to national and international commerce. The exercise of regulatory oversight for the purpose of conducting market surveillance, Commission briefings, and monitoring of trading for abusive conduct, by necessity, requires the collection of various data sets; including , transactional and position information on a daily basis.

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

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

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

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

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

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

The current and proposed reporting rules do not involve statistical surveys.

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

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

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

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

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

The Commission will protect sensitive information according to the Freedom of Information Act and 17 CFR part 145, "Commission Records and Information." In addition, the Commission fully complies with section 8(a)(1) of the Commodity Exchange Act, which strictly prohibits the Commission, unless specifically authorized by the Commodity Exchange Act, from making public "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers."

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

The Commission published a *Notice of Intent to Extend Collection 3038-0012: Futures Volume, Open Interest, Price, Deliveries, and Exchanges of Futures*. See 87 Fed. Reg. 31863 (May 25, 2022). 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 on the 60-day Federal Register notice.

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and**

**recordkeeping disclosure, or reporting format (if any, and on the data elements to be recorded, disclosed, or reported).**

Opportunity for public comment is provided when regulations are initiated or amended. Contact with derivatives markets and market participants is maintained on a continuous and on an ongoing basis to resolve reporting problems and address concerns. The Commission has, and plans to continue, to solicit comments through publication of proposed rules in the Federal Register. The Commission will also, on an ongoing basis, solicit public comments through the notice required by 5 CFR 1320.8(d).

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

No such circumstances are anticipated.

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

This question does not apply.

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

The Commission does not provide respondents with an assurance of confidentiality beyond that provided by applicable law. In addition, the Commission fully complies with section 8(a)(1) of the Commodity Exchange Act, which strictly prohibits the Commission, unless specifically authorized by the Commodity Exchange Act, from making public “data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.”

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

The data collection requirements relating to market data contain no sensitive questions as that term is used in item 11.

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

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

### **Reporting Requirements for Market Data on Futures, Options & Swaps**

In arriving at a wage rate for the hourly costs imposed, Commission staff used the May 2021 National Occupational Employment and Wage Estimates United States, published by the Bureau of Labor Statistics.<sup>1</sup> For the cost calculations Commission staff used a composite (blended) wage rate by averaging the hour wages of a Compliance Officer and a Software Developer / Programmer to arrive at the hourly wage rate of \$47.

Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collection of information. It is important to note that although the hourly wage referenced above does take production bonuses into account, it does not include other types of bonuses or consider certain variables such as employee benefits which can increase the cost of labor. The total information collection burden is approximately 4,250 hours. The total annualized cost to respondents equates to \$199,750 (\$47 hourly wage x 4250 burden hours)-- an increase of 26.8% or \$42,250 from the annual respondent burden cost of \$157,500 (\$42 hourly wage x 3750 burden hours) in 2019.<sup>2</sup>

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<sup>1</sup> Available at [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm).

<sup>2</sup> The estimated annual burden cost has increased due to the \$5 hourly wage rate increase (from \$42 hourly wage in 2019) plus an annual increase of 500 burden hours, due to two additional respondents per year, from 15 in 2019 to 17 currently.

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

- **The cost estimate should be split into two components; (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major costs factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software, monitoring, sampling, drilling and testing equipment, and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate, agencies may consult with a sample of respondents (fewer than ten), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.**

There are no applicable capital, start up, maintenance, or purchase of service cost component.

It is important to note that the information collected under the reporting rules are basic transaction records that any exchange would create as a matter of sound business practices in the normal course of business operations and in response to requirements imposed by non-governmental financial self-regulatory bodies. Because these records would be generated in any event, independently of any regulatory requirements, we estimate that the reporting rules impose no additional material costs on reporting markets that relate to recordkeeping and retention.

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

The Commission estimates the equivalent mix of approximately 15 Data, Market and Surveillance Staff will expend approximately 1 hour per day over 250 trading days to collect and analyze the information submitted. At an average salary rate of \$84 per hour for a full-time employee, the Commission estimates that the cost to the government will be \$315,000 annually.<sup>2</sup>

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

Since the last program renewal in 2019, the number of respondents has increased slightly from 15 to 17, and while the daily burden hour remained unchanged at 1hour per response, the total burden hours of the program increased by 13% due to a rise in the number of respondents.

- 16. For collection of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis, and publication. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

This question does not apply.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

This question does not apply.

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

There are no exceptions to the certification statement.

Attachment 1

## Reporting Requirements for Options and Futures



Estimated Annual Reporting Burden

<b>17 CFR Section</b>	<b>Annual Number of Respondents</b>	<b>Frequency of Response</b>	<b>Total Annual Responses</b>	<b>Hours per Response</b>	<b>Total Hours</b>
16.01	17	Daily	4,250	1.0	4,250