

# SUPPORTING STATEMENT FOR REVISED INFORMATION COLLECTION

OMB CONTROL NUMBER 3038-0009

## Large Trader Reports

### Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The reporting rules covered by OMB Control Number 3038-0009 (“the Collection”) are structured to ensure the Commission receives adequate information to carry out its market and financial surveillance programs.<sup>1</sup> The reporting rules are implemented by the Commission partly pursuant to the authority of sections 4a, 4c(b), 4g, and 4i of the Commodity Exchange Act.<sup>2</sup> Section 4a of the Act permits the Commission to set, approve exchange-set, and enforce speculative position limits.<sup>3</sup> Section 4c(b) of the Act gives the Commission plenary authority to regulate transactions that involve commodity options.<sup>4</sup> Section 4g of the Act imposes reporting and recordkeeping obligations on registered entities, and requires each registrant, whether a futures commission merchant (FCM), introducing broker, floor broker, or floor trader, to file such reports as the Commission may require on proprietary and customer positions executed on any board of trade in the United States or elsewhere.<sup>5</sup> Lastly, section 4i of the Act requires the filing of such reports as the Commission may require when positions made or obtained on designated contract markets or derivatives transaction execution facilities equal or exceed Commission-set levels.<sup>6</sup>

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<sup>1</sup> The market surveillance programs analyze market information to detect and prevent market disruptions and enforce speculative position limits. The financial surveillance programs combine market information with financial data to assess the financial risks presented by large customer positions to Commission registrants and clearing organizations. See 69 FR 76392 (December 21, 2004).

<sup>2</sup> 7 U.S.C. 1 *et seq.*

<sup>3</sup> 7 U.S.C. 6a.

<sup>4</sup> 7 U.S.C. 6c(b).

<sup>5</sup> 7 U.S.C. 6g.

<sup>6</sup> 7 U.S.C. 6i. In addition, CEA section 8a(5) is an enabling provision that grants to the Commission the authority to adopt regulations that in its judgment are reasonably necessary to accomplish any of the purposes of the Act. 7 U.S.C. 12a(5). Pursuant to CEA section 3(b), the Act seeks to ensure the financial integrity of regulated transactions and to prevent price manipulation and other disruptions to market integrity. 7 U.S.C. 5(b). Collectively, these

The Commission proposes to amend the regulation 17.00 reporting rules, which set out the requirement for futures commission merchants (“FCMs”), clearing members, foreign brokers, and certain reporting markets to submit daily position reports for large traders of futures and options. First, the Commission proposes to remove current regulation 17.00(g)’s 80-character record format and amend regulation 17.03(d) to delegate authority to the Director of the Office of Data and Technology to determine whether to permit or require one or more particular data standards for reports required under regulation 17.00(a). That submission standard would be published in a Part 17 Guidebook, to be published on the Commission’s website. Second, the Commission proposes adding an Appendix C to Part 17 enumerating data elements to be included in regulation 17.00(a) reports. The form and manner for reporting these data elements in proposed Appendix C would be provided in the Part 17 Guidebook.

- 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 employs a comprehensive reporting system to enforce speculative position limits and assess the activities and market power of traders in an effort to detect and deter manipulation of its jurisdictional markets. The large trader position information collected pursuant to regulation 17.00 is used primarily by analysts in the surveillance section of the Division of Market Oversight for daily market surveillance and the enforcement of speculative position limits. In addition, information on large traders is provided on a case-by-case basis to representatives of the Department of Agriculture, the Department of the Treasury, the Federal Reserve, and the Committees of Congress. The data also provides a basis for periodic Commission publications and is used by Commission economists and universities for research projects.

- 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.**

Reports and information are submitted electronically either directly through electronic links to the Commission’s information systems or through electronic mail or by facsimile.

- 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

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purposes warrant the maintenance of an effective and vigorous system of market and financial surveillance.

surveillance programs. Although partially duplicative of the efforts of the regulated markets, the Commission's surveillance programs, as instituted pursuant to the reporting rules, permit the Commission, among other things, to independently set reporting requirements, surveil the activities of traders across different markets on a daily basis, and verify the accuracy of the information submitted by the various regulated markets, in order to fulfill its oversight responsibility of those exchanges. 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 83-1), 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.**

If the collection were conducted less frequently, the Commission would not be able to conduct its oversight responsibilities for these markets. The Collection requirements are essential to executing the Commission's mission to foster open, transparent, competitive, and financially sound markets, to avoid systemic risk, and to protect the market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the Commodity Exchange Act.

Market activities require surveillance on a daily basis because situations such as attempted manipulations or congestion can develop rapidly. Adequate surveillance would be impossible if transactional and 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.**

The Commission generally regulates the trading of commodity derivatives, including futures and swaps, which are used to price a wide range of physical and financial commodity transactions. These transactions are vital to national and international commerce. The exercise of regulatory oversight for the purpose of conducting market surveillance, financial surveillance, and monitoring of trading for abusive conduct or compliance with position limit requirements, by necessity, requires the collection of transactional and position information on a monthly, weekly, or daily basis depending on the exact nature of the information required to be collected.

- **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. 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, financial surveillance, and monitoring of trading for abusive conduct, by necessity, requires the collection of 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.**

Section 5(d)(18) of the Commodity Exchange Act requires DCMs to maintain records of all activities related to the business of the market in a form and manner acceptable to the Commission for a period of five years. 7 U.S.C. 7(d)(18). In addition, Section 4g of the Commodity Exchange Act imposes reporting and recordkeeping obligations on registered entities and registrants (whether a futures commission merchant (FCM), introducing broker, floor broker, or floor trader).

For the purpose of enforcing the provisions of the Act and the Commission's regulations thereunder, Commission regulation 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 two years of the five-year period. . . . All such books and records shall be open to inspection by any representative of the Commission or the U.S. 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 market and large trader reporting rules require the submission of transactional and commercial data that involves confidential information or proprietary trade secrets. 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.**

**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).**

**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.**

Opportunity for public comment is provided when regulations are initiated or amended. As part of the rulemaking process, the Commission published a notice of proposed rulemaking (“NPRM”) in the Federal Register on June 27, 2023. 88 FR 41522. The NPRM notified the public and other federal agencies that the Commission will submit an information collection request, and solicited comments concerning the information collection. The NPRM includes a request for comment on all aspects of the proposed regulation, as well as requests for comment on specific provisions and issues (including all aspects of the proposed information collection requirements).

In addition, contact with derivatives markets and market participants is maintained on a continuous and ongoing basis to resolve reporting problems and address concerns. The Commission will also, on an ongoing basis, solicit public comments through the notice required by 5 CFR 1320.8(d).

- 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 protects 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.”

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.

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

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

See Attachment A.<sup>7</sup>

In arriving at a wage rate for the hourly costs imposed in connection with proposed revisions to regulation 17.00 Commission staff used the May 2021 National Occupational Employment and Wage Estimates United States, published by the Bureau of Labor Statistics.<sup>8</sup> For the cost calculations, Commission staff used a composite (blended) wage rate by averaging the hour wages for (1) General and Operations Managers, (2) Lawyers,

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<sup>7</sup> These hour burden estimates account for burdens associated with the proposals to (1) remove current regulation 17.00(g)'s 80-character record format and amend regulation 17.03(d) to delegate authority to the Director of the Office of Data and Technology to designate a modern data standard, and (2) requiring additional data elements as set out in proposed Appendix C to Part 17. The form and manner for reporting these data elements in proposed Appendix C would be provided in the Part 17 Guidebook.

<sup>8</sup> Available at [https://www.bls.gov/oes/2021/may/oes\\_nat.htm](https://www.bls.gov/oes/2021/may/oes_nat.htm).

and (3) Compliance Officers. Per the U.S. Bureau of Labor Statistics, national industry-specific occupational employment and wage estimates from May 2021 (the most recent available), the mean hourly wage for a general and operations manager is \$89.31, lawyer is \$102, and compliance officer is \$44.59. The average of those wages remains the same as the previous estimate of \$78.60.<sup>9</sup> Since May of 2021, there has been considerable inflation. The Commission assumes that real wages have remained constant, and it is using an hourly wage rate of \$87.<sup>10</sup>

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 proposed rulemaking would not affect the information collections conducted pursuant to regulation 16.00 and Part 21. Accordingly, the Commission does not propose to revise the burden hours estimates or wage rate for the hourly costs imposed in connection with the information collections under those rules.

The total information collection burden is approximately **17,472** hours. The Commission reviewed its most recent total received responses to review and revise its burden hour estimates. This review accounts for the variance in burden hours from the most recent renewal of the information collection approval.

#### A. Clearing Member Reports

Under regulation 16.00, the Commission obtains clearing member reports from the reporting markets or the clearing organizations of each reporting market. The Commission estimates that there are 16 total respondents, consisting of the covered reporting markets or clearing organizations. Reporting markets and the clearing organizations routinely provide this data to each clearing member. Since the data is routinely provided to clearing members, the reporting burden for this set of data is estimated at 20 minutes for each trading day. Total burden hours for the exchanges are estimated at 1,332 hours (16 respondents × 250 trading days × 0.333 hours = 1,332 hours). Using a blended professional wage rate made up of both compliance and information technology staff of \$87 per hour, the estimated total cost to the exchanges is \$115,884.

#### B. Reports by Reporting Firms

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<sup>9</sup> See May 2021 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 523000 - Securities, Commodity Contracts, and Other Financial Investments and Related Activities, [https://www.bls.gov/oes/current/naics4\\_523000.htm](https://www.bls.gov/oes/current/naics4_523000.htm).

<sup>10</sup> The Commission used the U.S. Bureau of Labor Statistics CPI Inflation Calculator to determine the constant real wage, [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm).



(1) Under Commission regulation 17.00 (17 CFR 17.00), routine reports are filed only for accounts with futures and option positions that exceed levels set by the Commission in regulation 15.03(b) (17 CFR 15.03(b)). In reviewing the responses received by the Commission in 2014, 326 respondents filed at least one report. The number of responses submitted by these 326 entities ranged from 1 to 258 and the mean number of responses was 208. During a sample period in 2023, 310 respondents submitted at least one report. Using these data points as a baseline for estimating the burdens associated with regulation 17.00, the Commission estimates that 310 respondents may be required to file 208 daily reports annually on average.

This information is reported as a data stream that is transmitted using internet data transmissions. The reporting burden consists of staff initializing the system for new contracts and new accounts. As a baseline, on average it is expected that about 15 minutes per trading day is expended by these staff. Based on the change from the estimate of 330 respondents in the previous renewal to an estimate of 310 respondents, the estimated reporting burden is revised downward from 17,160 hours (330 respondents  $\times$  208 responses  $\times$  0.25 hours = 17,160 hours) to 16,120 hours (310 respondents  $\times$  208 responses  $\times$  0.25 hours = 16,120 hours). Using a wage rate of \$87 per hour, we estimate costs to be \$1,402,440 annually.

The information collected under the regulation 17.00 reporting rules consists of basic transaction records that any market participant 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 FCMs, clearing members, introducing brokers, members of reporting markets, or foreign brokers or traders that relate to recordkeeping and retention.

(2) Under Part 21 of the Commission's regulations (17 CFR Part 21), the Commission may make special calls for additional cash and futures data concerning traders. In addition, under Part 21 of the Commission's regulations (17 CFR Part 21), the Commission may request upon call identifying information regarding persons who exercise trading control over accounts. Position information collected pursuant to special call under Part 21 (17 CFR Part 21) of the Commission's regulations is submitted by reporting firms and may be used to audit large trader reports and is used to investigate potential market abuses. Although similar to the standardized information routinely collected under Part 17 of the Commission's regulations (17 CFR Part 17) for reportable accounts, such data is submitted in response to customized requests for information and may regard accounts and positions that are not reportable. In contrast to special calls for identifying data made under Commission regulation 18.04 (17 CFR 18.04), special calls made under any provision of Part 21 of the Commission's regulations (17 CFR Part 21) generally occur only when a particular market shows a potential for disruption or there is an investigation of possible violations of the Act or the

regulations thereunder. Authority to issue special calls under Part 21 is delegated to the Directors of the Divisions of Market Oversight and Clearing and Risk. The Commission rarely issues special calls under Part 21 of the Commission's regulations; no such special calls have been issued by either the Division of Market Oversight or the Division of Clearing and Risk for the last five years at least, and a high-level search for more historical information about the use of this provision revealed no issuances under this authority. We estimate that the Commission will make fewer than 5 special calls under all of the provisions of Part 21 of the Commission's regulations (17 CFR Part 21) and that each response to a call will require approximately 1 hour. This yields an estimated annual burden of approximately 20 hours (4 respondents  $\times$  1 annual response  $\times$  5 hours = 20 hours). Using a wage rate of \$87 per hour, costs are estimated at \$1,740 per annum. The estimate of 4 special calls is based upon the Division of Market Oversight's assessment of the extreme rarity of issuances of special calls under Part 21 of the Commission's regulations (17 CFR Part 21).

Based on the above, annual costs associated with these burden hours total \$1,520,064 (\$115,884 + \$1,402,440 + \$1,740).

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

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate, agencies may consult with a sample of respondents (fewer than ten), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

See Attachment B.<sup>11</sup>

The Commission anticipates that the proposed amendments will result in annual capital and start-up costs and operating and maintenance costs. The Commission also anticipates that respondents will incur varying capital and start-up costs and operation and maintenance costs based on the methods they select to submit reports.

The Commission estimates that under the proposed amendments, approximately 74 respondents will submit reports required under regulation 17.00 via secure FTP (“FTP filers”) and that approximately 236 respondents will submit reports required under regulation 17.00 manually (“manual filers”). The Commission estimates respondents will incur capital and start-up costs to modify, test, and implement systems to report pursuant to the proposed amendments, and that FTP filers will incur additional costs to modify equipment.

#### *Wage Rates*

For calculating total capital and start-up costs for FTP filers, Commission staff used a composite (blended) wage rate by averaging the hour wages for (1) Computer Research Scientists, (2) Database Architects, (3) Software Developers, and (4) Developers, Programmers, and Testers. Per the U.S. Bureau of Labor Statistics, national industry-specific occupational employment and wage estimates from May 2021 (the most recent available), the mean hourly wage for a computer research scientist is \$68.58, database architect is \$58.58, software developer is \$58.17, and developers, programmers, and

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<sup>11</sup> These burden estimates account for burdens associated with the proposals to (1) remove current regulation 17.00(g)’s 80-character record format and amend regulation 17.03(d) to delegate authority to the Director of the Office of Data and Technology to designate a modern data standard, and (2) requiring additional data elements as set out in proposed Appendix C to Part 17. The form and manner for reporting these data elements in proposed Appendix C would be provided in the Part 17 Guidebook.

testers is \$54.68. The average of those wages is \$59.42.<sup>12</sup> Commission staff has applied a multiplier of 2.5 times to account for benefits and overhead. The Commission is therefore using an hourly wage rate of \$149 for FTP filers.

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<sup>12</sup> See May 2021 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 523000 - Securities, Commodity Contracts, and Other Financial Investments and Related Activities, [https://www.bls.gov/oes/current/naics4\\_523000.htm](https://www.bls.gov/oes/current/naics4_523000.htm).

For calculating total capital and start-up costs for manual filers, Commission staff used the wage rate for Data Scientists. Per the U.S. Bureau of Labor Statistics, national industry-specific occupational employment and wage estimates from May 2021, the mean hourly wage for a data scientist is \$52.24. Commission staff has applied a multiplier of 2.5 times to account for benefits and overhead. The Commission is therefore using an hourly wage rate of \$131 for manual filers.

#### *Total Capital and Start-up Costs*

To implement a modern data submission standard, the Commission estimates that FTP filers will incur total capital and start-up costs associated with modifying, testing, and implementing systems of 200 hours per firm to implement a modern data submission. This would amount to \$2,205,200 ( $200 \text{ hrs} \times 74 \text{ FTP filers} \times \$149/\text{hr} = \$2,205,200$ ). To implement new data elements required by proposed Appendix C, the Commission estimates that FTP filers will incur total capital and start-up costs associated with updating, testing, and implementing new data elements of 400 hours. This would amount to \$4,410,400 ( $400 \text{ hours} \times 74 \text{ FTP filers} \times \$149/\text{hr} = \$4,410,400$ ). The Commission also estimates that the 74 FTP filers would incur one-time costs of \$1,000, or \$74,000 in total, to modify equipment associated with these changes. This would amount to \$4,484,400 in aggregate capital and start-up costs related to new data elements for FTP filers. The aggregate capital and start-up costs associated with implementing a modern submission standard and updating, testing, and implementing new data data elements and the purchase of equipment associated with these changes would amount to \$6,689,600 ( $((200 \text{ hours} + 400 \text{ hours}) \times 74 \text{ FTP filers} \times \$149/\text{hr}) + (74 \text{ FTP filers} \times \$1,000) = \$6,689,600$ ).

To implement a modern data submission standard, the Commission estimates that manual filers will incur total capital and start-up costs associated with modifying, testing, and implementing systems of 10 hours per firm. This would amount to capital and start-up costs of \$309,160 ( $10 \text{ hours} \times 236 \text{ manual filers} \times \$131/\text{hr} = \$309,160$ ). To implement new data elements required by proposed Appendix C, the Commission estimates that manual filers will incur total capital and start-up costs associated with updating, testing, and implementing new data elements of 20 hours. This would amount to capital and start-up costs of \$618,320 ( $20 \text{ hours} \times 236 \text{ manual filers} \times \$131/\text{hr} = \$618,320$ ) for manual filers related to new data elements. The aggregate capital and start-up costs for manual filers would amount to \$927,480 ( $((10 \text{ hours} + 20 \text{ hours}) \times 236 \text{ manual filers} \times \$131/\text{hr} = \$927,480$ ) to implement both a modern submission standard and implement new data elements.

Based on the above, the Commission estimates that FTP filers and manual filers combined would incur approximately \$7,617,080 ( $\$6,689,600 + 927,480 = \$7,617,080$ ) in total capital and start-up costs. Based on 5 year, straight line depreciation, this amounts to annualized total capital and start-up costs of \$1,523,416 ( $\$7,617,080 / 5 = \$1,523,416$ ).

#### *Annual operating and maintenance costs*

In addition to the capital and start-up costs discussed above, the Commission estimates that as a result of the rule changes, respondents will incur ongoing annual operating and maintenance costs.

The Commission estimates that as a result of implementing the proposed amendments implementing a new data standard, the 74 FTP filers may incur additional operating and maintenance costs of 24 hours per year, for 1,776 total hours, totalling \$264,624 (24 hours × 74 FTP filers × \$149 = \$264,624). The Commission estimates that as a result of implementing the proposed amendments implementing a new data standard, the 236 manual filers may incur additional operating and maintenance costs of 24 hours per year, for 5,664 total hours, totalling \$741,984 (24 hours × 236 manual filers × \$131 = \$741,984).

The Commission estimates that as a result of implementing the proposed amendments implementing new data fields, the 74 FTP filers may incur additional operating and maintenance costs of 24 hours per year, for 1,776 total hours, totalling \$264,624 (24 hours × 74 FTP filers × \$149 = \$264,624). The Commission estimates that as a result of implementing new data fields, the 236 manual filers may incur additional operating and maintenance costs of 24 hours per year, for 5,664 total hours, totalling \$741,984 (24 hours × 236 manual filers × \$131 = \$741,984).

In total, the Commission estimates aggregate ongoing operating and maintenance costs of \$2,013,216 for all filers (\$264,624 + \$264,624 for FTP filers + \$741,984 + \$741,984 for manual filers = \$2,013,216).

Accordingly, the Commission estimates that, if the proposed rules are adopted, respondents will incur total annualized Capital/Start-Up and Operation/Maintenance Costs estimated at **\$3,536,632** (\$1,523,416 + \$3,536,632).

- 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 that the equivalent of a mix of approximately 30 Market and Surveillance Analysts along with technical support staff will expend approximately 5 hours per day over 250 trading days to collect and analyze the information submitted under the market and large trader reporting rules within the Collection. At an average salary rate of \$55 per hour for a full-time employee, the Commission estimates that the cost to the government will be \$2,062,500 annually.

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

The Commission is proposing amendments to Part 17 revising the reporting requirements under regulation 17.00. The proposed amendments to Part 17 would require respondents

to submit 17.00(a) reports using a modern data submission standard and would require respondents to include certain additional data elements in those reports.

As a result of this review, the Commission has updated the estimated number of respondents under part 17 to 310 respondents (a decrease from the prior clearance's estimate of 330). Based on the change from the estimate of 330 respondents in the previous renewal to an estimate of 310 respondents, the Commission proposes to revise downward the reporting burden associated with part 17 from 17,160 hours (330 respondents  $\times$  208 responses  $\times$  0.25 hours = 17,160 hours) to 16,120 hours (310 respondents  $\times$  208 responses  $\times$  0.25 hours = 16,120 hours) due to this decrease in the estimated number of respondents. Accordingly, this reduction in the estimated number of respondents yields a reduction in the overall estimate of reporting burden of 1,040 burden hours. This reduction in the estimated burden hours associated with the regulations under Part 17 of the Commission's rules yields a corresponding reduction in the overall burden under this clearance from 18,512 hours to 17,472 hours (18,512 hours – 1,040 hours = 17,472 hours).

In addition, the Commission estimates that respondents will incur total annualized Capital/Start-Up and Operation/Maintenance Costs estimated at \$3,536,632, if the proposed amendments are adopted.

- 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. The Commission is able to certify compliance with the provisions of 5 CFR 1320.9.

## Attachment A

The following chart summarizes the burden hours for this information collection. If the proposed amendments are adopted, annual burden hours associated with this collection would total **17,472 hours** and annual costs associated with these burden hours would total **\$1,520,064** (\$87/hr. × 17,472 hrs.).

### OMB Control Number 3038-0009

#### 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 Respondent | 5. Annual Number of Burden Hours per Respondent (3 × 4) | 6. Estimated Average Burden Hour Cost <sup>13</sup> | 7. Total Average Hour Burden Cost Per Respondent (5 × 6) | 8. Total Annual Responses (2 × 3) | 9. Total Annual Number of Burden Hours (2 × 5) | 10. Total Annual Burden Hour Cost of All Responses (2 × 7) |
|--|---|---|--|---|---|--|-----------------------------------|--|--|
| R. 16.00 (Reporting Markets)             | 16  | 250   | 0.333  | 83.333  | \$87  | \$7,242.75   | 4,000                             | 1,332  | \$115,884  |
| R. 17.00 (Reporting Firms)               | 310                                       | 208   | 0.25   | 52  | \$87  | \$4,524.00   | 64,480                            | 16,120   | \$1,402,440  |
| Part 21 – Special Call (Reporting Firms) | 4   | 1   | 5  | 5   | \$87  | \$435.00   | 4                                 | 20   | \$1,740  |
| <b>Total</b>                             | <b>330 (distinct entities or persons)</b> | <b>459<sup>14</sup></b>                           | <b>0.25<sup>15</sup></b>                                   | <b>53<sup>16</sup></b>                                  | <b>\$87</b>   | <b>\$4,606<sup>17</sup></b>                              | <b>68,484</b>                     | <b>17,472</b>                                  | <b>\$1,520,064</b>   |

<sup>13</sup> The Commission is providing a blended rate using estimated industry specific wages for General and Operations Managers, Lawyers and Compliance Officers. Per the BLS, national industry-specific occupational employment and wage estimates with data collected from employers in the securities, commodity contracts, and other financial investments and related activities provides that the mean hourly wage for a general and operations manager is \$89, lawyer is \$102, and compliance officer is \$45. The average of those wages is \$78.37. The Commission adjusted the May 2021 data to keep real wages constant.

<sup>14</sup> 68,484 total annual responses (column 8) / 330 distinct entities or persons (column 2) = 207.5 (rounded to 208) average responses per respondent.

<sup>15</sup> 17,472 total annual number of burden hours (column 9) / 68,484 total annual responses (column 8) = 0.25.

<sup>16</sup> 17,472 total annual burden hours (column 9) / 330 total respondents (column 2) = 52.9 (rounded up to 53).

<sup>17</sup> \$1,520,064 (total annual burden hours cost in column 10) / 330 (total estimated respondents in column 2) = \$4,606.25 (rounded down to \$4,606) average burden hours cost per respondent.



**Attachment B**

Capital/Start-Up and Operation/Maintenance Costs  
(Based on 5 year, straight line depreciation,)

| <b>Regulation</b> | <b>Annual Capital/Start-Up Costs</b> | <b>Annual Operating/Maintenance Costs</b> | <b>Total</b>       |
|-------------------|--------------------------------------|---|--------------------|
| 17.00             | \$1,523,416                          | \$2,013,216                               | <b>\$3,536,632</b> |