

SUPPORTING STATEMENT FOR REVISED INFORMATION COLLECTION

OMB CONTROL NUMBER 3038-0076

REQUIREMENTS FOR DERIVATIVE CLEARING ORGANIZATIONS

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 5b(a) of the Commodity Exchange Act (CEA) provides that a clearing organization may not perform the functions of a derivatives clearing organization (“DCO”) with respect to swaps unless the clearing organization is registered with the Commission. In order to register and maintain registration with the Commission, a DCO must comply with the DCO Core Principles and all applicable Commission regulations.

This information collection, as a whole, covers the burden associated with various requirements under Part 39 of the Commission’s regulations, including applications for registration as a DCO, reporting and recordkeeping requirements for registered DCOs, and compliance with Subpart C of Part 39 by systemically important DCOs and DCOs electing to be subject to Subpart C.¹

The Commission is amending the reporting and public information requirements for DCOs. The amendments merely clarify, narrow, or remove various requirements or add new but relatively minor requirements, such as requirements to report items that are expected to occur infrequently. The Commission estimates that these amendments will have no effect or at most a negligible effect on the reporting burden under these rules. Accordingly, as described in further detail below, the Commission is retaining its existing burden hour and labor cost estimates under the rule without change.

The Commission is also adding appendix C to part 39 that sets out the data fields that a DCO will be required to provide on a daily basis. This new appendix will both clarify existing requirements and add a few additional requirements. Specifically, the Commission is proposing to require that a DCO that clears interest rate swaps include in its daily reports the delta ladder, gamma ladder, vega ladder, zero rate curves, and yield curves that the DCO uses in connection with managing risks associated with interest rate swaps positions. The Commission also is requiring a DCO that clears interest rate swaps, forward rate agreements, or inflation index swaps to include in its daily reports the actual trade date for each position, along with an event description. The Commission is further requiring that each DCO include in its daily reports timing information about variation margin calls and payments, and also to include in its daily reports information that reflects that the daily report is complete. Lastly, in connection with adding to § 39.19(c) (1)(i) a requirement that a DCO include in its daily reports the results of its required daily

¹ The Commission’s proposed amendments to its reporting requirements discussed herein affect Subpart B of Part 39. None of the changes would affect Subparts A, C, or D.

margin model back testing, the Commission also is adding to new appendix C the additional data fields necessary to implement this requirement. The Commission needs this information to better ascertain and evaluate the risks associated with these positions and to improve its risk surveillance of DCOs.

As described in further detail below, the Commission estimates that DCOs may incur some additional capital and start-up costs in order to adapt their systems to report the fields required under the new Appendix C.

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.

Generally, the information received is analyzed by Commission staff to determine whether applicants meet the necessary criteria for registration as a DCO or Subpart C status. Review of this information also forms a basis for on-going evaluation and oversight of the risk management and financial integrity of DCOs, and compliance with the CEA and Commission regulations. It informs the Commission concerning whether the Commission should take any action regarding the failure of financial and risk management practices or lack of compliance with the CEA or Commission regulations.

As noted above, the amendments clarify, narrow, or remove various requirements. The amendments also add a new appendix that includes new daily reporting fields. These changes will enhance the information the Commission receives about DCOs' risks and risk management. The Commission needs this information to better ascertain and evaluate the risks associated with positions and to improve its risk surveillance of DCOs.

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 information required by this collection is required to be filed electronically.

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.

To the maximum extent possible, the information collection was designed to avoid duplication. In all cases where it was possible to leverage information collections contained in other rulemakings, the Commission elected not to impose collections that would increase burden. In fact, the proposed changes are intended primarily to clarify and streamline the information currently collected. The required information is not already collected by the Commission for any other purpose, collected by any other agency, or available for public disclosure through any other source. Each different type of information is needed given the purposes for which the data will be used, stated above in Questions 1 and 2.

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 any small businesses or other 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.

If the collections were conducted less frequently, the Commission would not have sufficient information to ascertain whether DCOs are in compliance with the statutory and regulatory requirements applicable to their operation as registered DCOs.

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 collection requires daily reporting of margin information, all other daily cash flows relating to clearing and settlement, and end of day positions. This frequency is necessary for the Commission to conduct effective risk surveillance. For risk monitoring purposes of DCOs, daily reporting is necessary because positions can change on a daily basis. Event-specific reporting may or may not be more often than quarterly, depending on when events requiring notice occur.

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

In order for the Commission to adequately assess a DCO's compliance with these core principles and related regulations, a DCO may be required to prepare a written response to a collection of information in fewer than 30 days depending on the exigency of the situation. At all times, the Commission's goal is to protect the integrity of the U.S. clearing system.

requiring respondents to submit more than an original and two copies of any document:

Only single copies of documents are required.

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

Commission Regulation 1.31(b) expressly requires that books and records required to be kept by the CEA or Commission regulations be retained for certain specified periods. Other than with respect to oral communications and records exclusively created and maintained on paper, the shortest of these periods is five years from the date of creation. The collection currently includes recordkeeping requirements for registered DCOs.

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;

No statistical surveys are involved in the amended regulations.

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

The requirements do not involve the use of 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

The requirements do not involve an unsupportable pledge of confidentiality regarding the collection of data.

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

The Commission has procedures to protect the confidentiality of an applicant's or registrant's data. These are set forth in the Commission's regulations at parts 145 and 147 of title 17 of the Code of Federal Regulations.

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

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

The Commission published a notice of proposed rulemaking (NPRM) in the *Federal Register*.² The NPRM included a request for comment on all aspects of the proposed regulations, including all aspects of the proposed information collection requirements.

A number of commenters stated that the Commission underestimated the burden increase that would have resulted from its proposal to eliminate the materiality threshold in § 39.18(g). However, the Commission declined to adopt this proposal in the Final Rule.

² Reporting and Information Requirements for Derivatives Clearing Organizations, 87 FR 76698 (Dec. 15, 2022), available at <https://www.federalregister.gov/documents/2022/12/15/2022-26849/reporting-and-information-requirements-for-derivatives-clearing-organizations>.

Accordingly, this proposal has no impact on the cost and hour burden estimates associated with the Final Rule.³

In addition, with regard to adding new fields to new Appendix C, CME commented that the time that the Commission estimated would be required to implement the proposed changes would be “an order of magnitude greater than predicted,” which would add to the costs. However, CME did not quantify the amount by which it believes that costs would be increased, and as a result, the Commission was reluctant to adjust its estimates based on this comment. Furthermore, the Commission did not adopt all of the new fields that were proposed, which would reduce the costs that may be incurred by DCOs to implement the required changes relative to the initial proposal. Accordingly, the Commission believes that retaining its initial estimates of these costs in the proposal (excluding estimates of any proposals not adopted in the final rule) addressed CME’s concern that the Commission’s initial estimates of the costs of implementation were not adequate, while accounting for the fact that costs were reduced by the Commission’s decision not to adopt all of the relevant proposals.

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

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. The information collection does not involve any payment or gift to a respondent.

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. 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.” The Commission has procedures to protect the confidentiality of an applicant’s or registrant’s data. These are set forth in the Commission’s regulations at parts 145 and 147 of title 17 of the Code of Federal Regulations.

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

³ Reporting and Information Requirements for Derivatives Clearing Organizations, 88 FR 53664 (Aug. 8, 2023).

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. None of the required information is sensitive, as that term is used in Question 11.

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

Indicate the number of respondents, frequency of response, annual hour burden and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than ten) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

If the request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

Provide estimates of annualized cost to respondents for the hours burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.

The Commission has adopted several amendments to clarify, narrow, or remove various requirements or add new but relatively minor requirements, such as requirements to report items that are expected to occur infrequently. The Commission estimates that these amendments will have no effect or at most a negligible effect on the reporting burden under these rules. Accordingly, as described below, the Commission is retaining its existing burden hour and labor costs estimates for these provisions without change.

a. Risk Management

The Commission is adopting as proposed new § 39.13(h)(5)(iii) to provide that a DCO that clears fully collateralized positions may exclude from the requirements of paragraphs (h)(5)(i) and (ii) those clearing members that clear only fully collateralized positions. The requirements would still apply to clearing members that clear fully collateralized positions but also clear margined products. This change will reduce the burden for DCOs that clear fully collateralized products, but does not affect the burden for the majority of DCOs that are subject to daily reporting requirements, as only four of the fifteen currently registered DCOs clear fully collateralized positions. As a result, the Commission believes that this reduction will have a negligible impact on the overall

reporting burden for DCOs, and therefore the Commission is leaving the reporting burden for these reporting requirements unchanged.

b. Treatment of Funds

The Commission is amending § 39.15(b)(2), which applies when a DCO and its clearing members seek to commingle customer positions in futures, options, foreign futures, foreign options, and swaps, or any combination thereof, and any money, securities, or property received to margin, guarantee or secure such positions, in an account subject to the requirements of Sections 4d(a) or 4d(f) of the CEA. The Commission is consolidating paragraphs (b)(2)(i) and (b)(2)(ii) and renumbering paragraphs accordingly. These changes pertain only to the structure and organization of the regulation and therefore do not impact the reporting requirement. The Commission is amending § 39.15(b)(2) to clarify that the requirement in paragraph (b)(2)(i)(G) that a DCO discuss the systems or procedures that the DCO has implemented to oversee its clearing members' risk management of eligible products may be addressed by describing why existing risk management systems and procedures are adequate, and to add language clarifying that the requirements and standard of review of § 40.5 apply to commingling rule submissions. Because these changes are mere clarifications of existing requirements, they also have no impact on the reporting burden.

Similarly, the Commission is removing existing paragraph (b)(2)(iii), which provides that the Commission may request additional information in support of a rule submission filed under existing paragraph (b)(2)(i) or (ii), and adding new paragraph (b)(2)(viii), which provides that the Commission may request supplemental information to evaluate the DCO's submission and requires a DCO to submit any other information necessary for the Commission to evaluate the DCO's rule's compliance with the CEA and the Commission's regulations. This does not impact the reporting burden because new paragraph (b)(2)(viii), like existing paragraph (b)(2)(iii), would ensure that the Commission can consider all information relevant to the rule submission. Although existing paragraph (b)(2)(iii) does not contain explicit language similar to new paragraph (b)(2)(viii)'s requirement that the DCO submit any other information necessary for the Commission to evaluate the rule's compliance with the CEA and the Commission's regulations, the fact that existing paragraph (b)(2)(iii) permits the Commission to request such information implies a DCO's obligation to supply it. Simply making this implication explicit does not impact the reporting burden.

The Commission is deleting paragraphs (b)(2)(i)(C), (E), (H), and (L) because they require a DCO to submit information the Commission can already access or has not needed in its review of commingling rule submissions. This change will decrease the reporting burden. In addition, the Commission is removing existing paragraph (b)(2)(i)(I), which requires the DCO to provide information related to its margin methodology, while adding related paragraph (b)(2)(vii), which will require that a DCO discuss whether it anticipates allowing portfolio margining of commingled positions, describe and analyze any margin reductions it would apply to correlated positions, and make an express confirmation that any portfolio margining will be allowed only as permitted under § 39.13(g)(4). These changes will collectively decrease the reporting burden because the requirements being removed through the deletion of paragraph (b)(2)(i)(I) are, as a

whole, more burdensome than the requirements being added in paragraph (b)(2)(vii). Similarly, the Commission is removing the requirement in existing paragraph (b)(2)(i)(K) to discuss a DCO's default management procedures generally and maintaining only the requirement to address default management procedures unique to the products eligible for commingling and moving that requirement to paragraph (b)(2)(vi). This narrowing of the scope of the requirement reduces the reporting burden on the relevant DCOs.

The Commission is amending paragraph (b)(2)(i)(B) (renumbered as paragraph (b)(2)(ii)), which requires the DCO to provide an analysis of the risk characteristics of the products that would be eligible for commingling, to specify that the DCO should address any risk characteristics of products to be commingled that are unusual in relation to the other products the DCO clears, such as margining, liquidity, default management, pricing, or other risk characteristics, and how the DCO plans to manage any risks identified. Because such analysis was not previously explicitly required, and because DCOs that would not otherwise have addressed such issues in their analysis of the risk characteristics of the eligible products will now be required to do so, this will increase the reporting burden. However, the Commission expects this increase to be negligible, as this provision would only apply when a DCO is considering a new commingling of customer positions in various products, and only when the risk characteristics of products to be commingled are unusual in relation to other products the DCO clears.

The Commission is amending paragraph (b)(2)(i)(F) (and renumbering it as (b)(2)(iv)), which currently requires the DCO to describe the financial, operational, and managerial standards or requirements for clearing members that would be permitted to commingle eligible products, to require only that the DCO describe any additional requirements that would apply to clearing members permitted to commingle eligible products. The Commission believes that this amendment will have no impact on the reporting burden. Although the new requirement that the DCO describe any additional requirements is broader than the current requirement to describe financial, operational, and managerial standards or requirements, the existing paragraph requires the DCO to report even if no additional requirements would apply. The amendment only requires reporting when additional requirements are, in fact, applicable.

The Commission believes that the reductions in the reporting burden resulting from the deletion of paragraphs (b)(2)(i)(C), (E), (H), and (L) and the narrowing of the reporting burden resulting from the deletions of paragraphs (b)(2)(i)(I) and (K) (even after giving effect to the addition of new paragraphs (b)(2)(vi) and (vii)) are at least as great as the increase in the reporting burden resulting from the amendments to paragraph (b)(2)(i)(B) (renumbered as paragraph (b)(2)(ii)). Because the Commission lacks the data to fully quantify each of these changes, it is conservatively estimating that these changes collectively do not alter the reporting burden. The Commission is of the view that to the extent that the cross-margining program would be submitted as part of a new rule or rule amendment filing pursuant to § 40.5, the changes are already covered by OMB control number 3038-0093 and there is no change in the burden estimates.

c. Daily Reporting

The Commission is adopting its proposed amendments to § 39.19(c)(1)(i)(A) that clarify that the existing requirement to identify individual customer accounts by LEI and internally-generated identifier was intended to apply to all instances in § 39.19(c)(1) where reporting is required at the individual customer account level, and not only to end-of-day positions. The Commission therefore is amending § 39.19(c)(1)(i)(A) to specify that when a DCO reports initial margin requirements and initial margin on deposit by each individual customer account as required, the DCO also must identify each individual customer account by LEI and internally-generated identifier, where available. The clarification will not affect the burden on DCOs because DCOs already provide this information and the impact of this amendment on the existing burden is negligible.

The Commission also is amending § 39.19(c)(1)(i)(B) and (C), which require a DCO to report daily variation margin and cash flow information by house origin and separately by customer origin and by each individual customer account, to remove the requirement that a DCO report daily variation margin and cash flows by individual customer account. This change is anticipated to result in a negligible decrease from the current burden of 0.5 burden hours per report.⁴

The Commission also is adopting new § 39.19(c)(1)(iii), as proposed, which will give a DCO the ability, after consultation with the Division, to voluntarily submit any additional data field in its daily reports that is necessary or appropriate to better capture the information that is being reported. The Commission believes that adding this provision to § 39.19(c)(1) does not affect the existing burden estimates for daily reporting. Although it is unclear at this time whether any DCOs will decide to voluntarily submit additional data fields in their daily reports and how frequently they will do so, the Commission believes that the impact of this new provision on the existing daily reporting burden is negligible. The Commission does not anticipate that DCOs will add information to their daily reports if doing so is a burden. The Commission instead anticipates that voluntary reporting by DCOs likely will consist only of data that already is maintained in reportable format and that can be included in the daily reports with minimal effort.

The Commission is also adding to part 39 an appendix that will codify the existing reporting fields for the daily reporting requirements in § 39.19(c)(1). The codification of existing reporting fields in new appendix C will not change the reporting burden.⁵

The Commission is adding new fields within new appendix C that would further implement the existing daily reporting requirements under § 39.19(c)(1). Specifically, the Commission is adopting a requirement that a DCO include in its daily reports, with regard to interest rate swaps only, the delta ladder, gamma ladder, vega ladder, zero rate

⁴ DCOs currently are not reporting variation margin and cash flow information by each individual customer account because the Division issued a no-action letter addressing compliance with the amended requirements in § 39.19(c)(1). See CFTC Letter No. 21-01 (Dec. 31, 2020); see also CFTC Letter No. 21-31 (Dec. 22, 2021). As noted, the proposed amendments to § 39.19(c)(1)(i)(B) and (C) would eliminate the requirement for which additional time was provided in the staff letter.

⁵ The current burden estimates for complying with the daily reporting requirements in § 39.19(c)(1) included in OMB Control No. 3038-0076 take into account the burden associated with reporting in accordance with the Reporting Guidebook.

curves, and yield curves that the DCO uses in connection with managing risks associated with interest rate swaps positions. The Commission also is adopting a requirement that a DCO that clears interest rate swaps, forward rate agreements, or inflation index swaps to include in its daily reports the actual trade date for each position, along with an event description. The Commission is not adopting a proposed requirement that each DCO include in its daily reports timing information about variation margin calls and payments, but is adopting a proposed requirement to include in its daily reports information that reflects that the daily report is complete. Lastly, in connection with adopting a new requirement in § 39.19(c)(1)(i) that a DCO include in its daily reports the results of its required daily margin model backtesting, the Commission also is adding to new appendix C amended versions of the additional data fields necessary to implement this requirement.

With respect to adding new fields to new appendix C, and adding to § 39.19(c)(1)(i) a requirement that a DCO include in its daily reports the results of its required margin model backtesting, the Commission believes that the incremental capital investment costs associated with implementing these requirements would be negligible. In many cases, the new fields are data that are already being used for DCO risk management and operations, and in some cases are already being reported to the Commission on a voluntary basis. Further, the Commission believes that any capital investment implementation for the reporting of these fields would leverage the DCO's existing server architecture that could be scaled up to meet these requirements with negligible costs. However, to the extent that a DCO does not currently use any of the information that would be required under the new fields, or if that information is not accessible on an automated basis, then a DCO may incur start-up costs associated with reporting information pursuant to the new fields, specifically including costs for coding, as well as testing, quality assurance, and compliance review. As explained below in connection with its discussion of cost-benefit considerations, the Commission has estimated that DCOs may incur other start-up costs of approximately \$69,667.21 per DCO. CME commented that it believes the time required to implement the proposed changes would be "an order of magnitude greater than predicted," which would add to the costs. However, CME did not quantify the amount by which it believes that costs would be increased, and as a result, the Commission is reluctant to adjust its estimates based on this comment. Furthermore, the Commission is not adopting all of the new fields that were proposed, which would reduce the costs that may be incurred by DCOs to implement the required changes relative to the initial proposal. Accordingly, the Commission believes that retaining its initial estimates of these costs in the proposal (excluding estimates of any proposals not being adopted in the final rule) addresses CME's concern that the Commission's initial estimates of the costs of implementation were not adequate, while accounting for the fact that costs were reduced by the Commission's decision not to adopt all of the relevant proposals.

Lastly, because the Commission understands that the preparation and submission of the daily reports required under § 39.19(c)(1)(i) is largely automated, the Commission estimates that adding the new fields to new appendix C, and adding to § 39.19(c)(1)(i) a requirement that a DCO include in its daily reports the results of the margin model backtesting, will result in a negligible increase to the current estimate of 0.5 burden hours

per report. Accordingly, the Commission retains its existing estimate for the burden associated with daily reporting under § 39.19(c)(1).

Accordingly, the Commission is retaining its existing burden estimates without change and the aggregate burden estimate for daily reporting remains as follows:

Estimated number of respondents: 13

Estimated number of reports per respondent: 250

Average number of hours per report: 0.5

Estimated gross annual reporting burden: 1625

d. Event-specific Reporting

Regulation 39.19(c)(4) requires a DCO to notify the Commission of the occurrence of certain events; § 39.19(c)(4)(ix)(A)(1) requires a DCO to report any change in the ownership or corporate or organizational structure of the DCO or its parent(s) that would result in at least a 10 percent change of ownership of the DCO. The Commission is amending § 39.19(c)(4)(ix)(A)(1) to require the reporting of any change in the ownership or corporate or organizational structure of the DCO or its parent(s) that would result in a change to the entity or person holding a controlling interest in the DCO, whether through an increase in direct ownership or voting interest in the DCO or in a direct or indirect corporate parent entity of the DCO. This increases the reporting requirement. However, the changes of control contemplated by the amendment occur infrequently. In addition, DCOs have typically notified the Commission of such changes of control even if not technically required by the current regulations. Finally, although changes of control usually require the preparation of documents such as a purchase agreement and the amendment of corporate governance documents and organizational charts, those burdens are a result of the change in control itself and not of the reporting requirement. The administrative burden of notifying the Commission—preparing a notification, attaching relevant but pre-existing supporting documents such as the revised organizational chart, and submitting to the Commission—is negligible. Therefore, the increase in the reporting requirement resulting from this amendment is negligible.

Regulation 39.19(c)(4)(xii) and (xiii) require notification of changes in a liquidity funding arrangement or settlement bank arrangement. The Commission is amending these regulations to clarify that the reporting requirements include reporting new arrangements as well as changes to existing ones. The clarification will not affect the burden on DCOs because such reporting is already implied in the regulation.

Separately, the Commission is amending § 39.19(c)(4)(xv) to add credit facility funding arrangements, liquidity funding arrangements, and custodian banks to the list of arrangements or banks for which the DCO must report to the Commission any issues or concerns of which the DCO becomes aware. Although this increases the number of entities or arrangements for which reporting may be required, given that a DCO is only

required to report these issues when it becomes aware of them, and given that these events are not very common, any increase should be negligible.

Finally, the Commission is adding § 39.19(c)(4)(xxv) to centralize an existing reporting obligation under § 39.37(b)(2) in § 39.19. This does not create a new reporting obligation. The Commission is also revising §§ 39.37(c) and (d) to remove the requirement to make certain disclosures to the Commission while retaining a requirement to make such disclosures publicly. This will cause a negligible decrease in costs that will not affect the reporting burden. The reporting burden under existing § 39.37 is covered in the PRA estimate for that regulation.

Accordingly, the Commission is retaining its existing burden estimate for these provisions and the aggregate burden estimate of § 39.19(c)(4) remains as follows:

Estimated number of respondents: 13

Estimated number of reports per respondent: 14

Average number of hours per report: 0.5

Estimated gross annual reporting burden: 91

e. Public Information

The Commission is revising § 39.21(c)(3) and (4) to exclude DCOs that clear only fully collateralized positions from the specific disclosure requirements of these paragraphs. Similarly, the Commission is amending § 39.21(c)(7), which requires a DCO to publish on its website a current list of its clearing members, to provide that a DCO may omit any clearing member that clears only fully collateralized positions and is not an FCM from the list of clearing members that it must publish on its website. Because such DCOs are still required to report per other parts of § 39.21, such as to disclose the terms and conditions of each contract cleared, the fees it charges its members, and daily settlement prices, volumes, and open interest for each contract, the number of respondents will remain unchanged. The changes do not affect the burden for the majority of DCOs that are subject to the public disclosure requirements. For fully collateralized DCOs, the changes would result in a negligible decrease in the amount of time required per report.

Accordingly, the Commission is retaining its existing burden estimate for these provisions and the aggregate burden estimate of § 39.21 remains as follows:

Estimated number of respondents: 13

Estimated number of reports per respondent: 4

Average number of hours per report: 2

Estimated gross annual reporting burden: 104

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.

As part of these amendments, the Commission is adding new fields within new appendix C to implement the existing daily reporting requirements under § 39.19(c)(1). These additions include a requirement that a DCO include in its daily reports, with regard to interest rate swaps only, the delta ladder, gamma ladder, vega ladder, zero rate curves, and yield curves that the DCO uses in connection with managing risks associated with interest rate swaps positions. The Commission also is adopting a requirement that a DCO that clears interest rate swaps, forward rate agreements, or inflation index swaps to include in its daily reports the actual trade date for each position, along with an event description. Lastly, in connection with adopting a new requirement in § 39.19(c)(1)(i) that a DCO include in its daily reports the results of its required daily margin model backtesting, the Commission also is adding to new appendix C amended versions of the additional data fields necessary to implement this requirement.

With respect to adding new fields to new appendix C, and adding to § 39.19(c)(1)(i) a requirement that a DCO include in its daily reports the results of its required margin model backtesting, the Commission believes that the incremental capital investment costs associated with implementing these requirements would be negligible. In many cases, the new fields are data that are already being used for DCO risk management and

operations, and in some cases are already being reported to the Commission on a voluntary basis. Further, the Commission believes that any capital investment implementation for the reporting of these fields would leverage the DCO's existing server architecture that could be scaled up to meet these requirements with negligible costs. However, to the extent that a DCO does not currently use any of the information that would be required under the new fields, or if that information is not accessible on an automated basis, then a DCO may incur start-up costs associated with reporting information pursuant to the new fields, specifically including costs for coding, as well as testing, quality assurance, and compliance review.

Accordingly, the Commission estimates that respondents may incur start-up costs are estimated to be approximately \$69,667.21 per DCO, including costs for coding, as well as testing, quality assurance, and compliance review. The estimate of total start-up costs consists of the following: \$14,101 for the delta ladder, gamma ladder, vega ladder, and the zero rate curves, based on 20 hours of systems analyst time, 40 hours of programmer time, and 40 hours of tester time; \$7,249 for adding interest rate, forward rates, and end of day position fields, based on 8 hours of systems analyst time, 4 hours of programmer time, and 40 hours of tester time; \$14,141 for the manifest file, based on 40 hours of systems analyst time, 40 hours of programmer time, and 20 hours of tester time; and \$22,677 for adding the backtesting fields, based on 40 hours of systems analyst time, 80 hours of programmer time, and 40 hours of tester time. The estimate of total start-up costs also includes \$11,500 for compliance attorney review.⁶ This yields total aggregate start-up costs of \$905,674 for covered respondents (13 respondents × \$69,667.21 = \$905,673.73).

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 estimate of the annual cost to the government per respondent for daily, annual, and event-specific reporting is about \$9,462 per year. This reflects the cost of staff needed to analyze the information received, as follows: a full time equivalent reviewing for 7 hours per trading day, and an additional 70 hours per year reviewing other required reports at an

⁶ To estimate the start-up costs, the Commission relied upon internal subject matter experts in its Divisions of Data and Clearing and Risk to estimate the amount of time and type of DCO personnel necessary to complete the coding, testing, quality assurance, and compliance review. The Commission then used data from the May 2021 National Occupational Employment and Wage Estimates Report produced by the U.S. Bureau of Labor Statistics, available at https://www.bls.gov/oes/current/oes_nat.htm, to estimate the total costs of this work. The mean salary for a computer systems analyst in management companies and enterprises is \$103,860. This number is divided by 1800 work hours in a year to account for sick leave and vacations and multiplied by 2.5 to account for retirement, health, and other benefits, as well as for office space, computer equipment support, and human resources support, all of which yields an hourly rate of \$144. Similarly, a computer programmer has a mean annual salary of \$102,430, yielding an hourly rate of \$142; a software quality assurance analyst and tester has a mean annual salary of \$99,460, yielding an hourly rate of \$138; and a compliance attorney has a mean annual salary of \$198,900, yielding an hourly rate of \$276.

average salary of \$83 per hour.⁷ The total number of hours of review time per respondent each year is 114 hours, and the total annual cost for all 13 registered DCOs is \$123,006. In addition, the Commission previously estimated that the costs for staff to process applications for registration with alternative compliance received pursuant to § 39.3(a)(3), and to periodically review reports, disclosures, and records for compliance with the conditions of registration, would translate into five Commission employees at the CT-14 level, who will spend approximately 10% of their time performing these tasks. At an estimated salary cost of \$93 per hour per employee, the costs to the government will be approximately \$96,720.⁸ The total of these cost estimates is \$219,726. The estimate of the cost to the government per respondent for the reduced or eliminated daily reporting requirements, and for the additional reporting requirements in the proposed amendments to § 39.19(c)(4)(xv), is negligible.

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 amending certain reporting and information regulations applicable to DCOs. These amendments will, among other things, update information requirements associated with commingling customer funds and positions in futures and swaps in the same account, revise certain daily and event-specific reporting requirements in § 39.19(c), and include in an appendix the fields that a DCO is required to provide on a daily basis under existing § 39.19(c)(1). The amendments merely clarify, narrow, or remove various requirements or add new but relatively minor requirements, such as requirements to report items that are expected to occur infrequently. As a result, the Commission anticipates that the amendments will have a negligible impact on the existing information collection burden on DCOs. Accordingly, the Commission is retaining its existing burden hour and labor costs estimates under the rule without change. The Commission anticipates that respondents may incur aggregate start-up costs of approximately \$905,674, as explained in the response to Question 13.

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.

⁷ Average hourly salary based on the Commission's CFTC 2023 Pay Chart (with adjusted locality pay): <https://www.cftc.gov/media/8026/CFTC2023paytables010123/download>.

⁸ Five employees x [.10 x 2,080 hours per year] x \$93 per hour = \$96,720. This figure is based on an average of CT-14 salaries for employees in Washington, DC and Chicago based on the Commission's CFTC 2023 Pay Chart. This figure does not include employee benefits.

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

This question does not apply.