

**SUPPORTING STATEMENT for the Paperwork Reduction Act Information Collection
Submission for Rules Relating to Security-Based Swap Execution and Registration and
Regulation of Security-Based Swap Execution Facilities**

(OMB Control No. 3235-0793)

This submission is being made pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 *et seq.*

A. JUSTIFICATION

1. Necessity of Information Collection

The Securities and Exchange Commission (“Commission”) is adopting a set of rules (“Regulation SE”) and forms under Section 3D of the Securities Exchange Act of 1934 (“SEA”) that creates a regime for the registration and regulation of security-based swap execution facilities (“SBSEFs”) and address other issues relating to security-based swap (“SBS”) execution generally.¹ Key rules within Regulation SE include Rule 803, which establishes a process for SBSEF registration; Rules 804 to 810, which establish procedures for rule and product filings by SBSEFs; Rules 818 to 831, which implement the 14 Core Principles for SBSEFs set forth in Section 3D(d) of the SEA; Rules 832 to 833, which address cross-border matters relating to SBS execution; and Rule 834, which impose requirements addressing conflicts of interest involving SBSEFs and SBS exchanges, as required by Section 765 of the Dodd-Frank Act.

In addition to the rules described above, the Commission is also adopting Form SBSEF,² which is the form that an entity will use to register with the Commission as an SBSEF; adopting a submission cover sheet,³ which will be required to accompany filings with the Commission made by SBSEFs for rule and rule amendments and for product listings; adopting amendments to existing Rule 3a1-1 under the SEA⁴ to exempt from the SEA definition of “exchange” registered SBSEFs that provide a market place for no securities other than SBS and certain registered clearing agencies; adopting new Rule 15a-12 under the SEA⁵ that, while affirming that an SBSEF also would be a broker under the SEA, would exempt a registered SBSEF from certain broker requirements; providing for the sunset of an existing exemption from the requirement to register as a clearing agency for entities performing the functions of an SBSEF but that are not yet registered as such; and adopting new rules and amendments to the Commission’s Rules of Practice,⁶ to allow persons who are aggrieved by certain determinations by an SBSEF to apply

¹ See Rules Relating to Security-Based Swap Execution and Registration and Regulation of Security-Based Swap Execution Facilities, SEA Release No. 34-98845 (Nov. 2, 2023), 88 FR 87156 (Dec. 15, 2023) (“Regulation SE Adopting Release”).

² See 17 CFR 249.1701.

³ See 17 CFR 249.1702.

⁴ See 17 CFR 240.3a1-1.

⁵ See 17 CFR 240.15a-12.

⁶ See 17 CFR part 201.

for review by the Commission and to delegate certain regulatory tasks to various persons and offices within the Commission.

The rules and rule amendments include a collection of information within the meaning of the Paperwork Reduction Act (“PRA”) for SBSEFs that will be required to comply with Regulation SE and file a Form SBSEF with the Commission. In addition, Rule 833 includes a collection of information within the meaning of the PRA for persons that wish to seek an exemption order under that rule, and Rule 834 includes a collection of information within the meaning of the PRA for SBS exchanges (in addition to SBSEFs).

Many of the rules that constitute Regulation SE are modeled after analogous Commodity Futures Trading Commission (“CFTC”) rules already in force, with only minor edits to reflect differences between the statutory regimes of the two agencies. Entities that are most likely to register with the Commission as SBSEFs are those already registered with the CFTC as SEFs. Such entities have made substantial investments in systems, policies, and procedures to comply with and adapt to the regulatory system developed by the CFTC. Harmonization will allow such dually-registered entities to utilize their existing systems, policies, and procedures to comply with the Commission’s SBSEF rules, and SEF members will likely face only marginal additional burdens to trade SBS as well as swaps on dually registered platforms. In light of these factors, the Commission has based many of its paperwork burden estimates on CFTC burden estimates calculated for analogous CFTC rules. The CFTC estimated PRA burdens by aggregating the burdens produced by a group of related rules. In most cases, the Commission has modeled its methodology, assumptions, and calculations on those of the CFTC, while making adjustments that reflect differences between the scale of the market for swaps relative to the market for SBS, such as the estimated number of SBSEFs, number of SBS market participants, and number of SBS transactions, as necessary.

2. Purpose and Use of the Information Collection

a. Registration requirements and Form SBSEF

Regulation SE imposes various requirements relating to SBSEF registration, which are set forth in Rule 803.⁷ The information collected pursuant to these rules will enhance the ability of the Commission to determine whether to approve the registration of an entity as an SBSEF; to monitor and oversee SBSEFs; to determine that SBSEFs initially comply, and continue to operate in compliance, with the SEA, including the Core Principles applicable to SBSEFs; to carry out its statutorily mandated oversight functions; and to maintain accurate and updated information regarding SBSEFs. Because the registration information will be publicly available, it could also be useful to an SBSEF’s members, other market participants, other regulators, and the public generally.

⁷ See, e.g., Rule 803(b)(1) (requiring an entity that wishes to register with the Commission as an SBSEF to submit a Form SBSEF).

b. Requirements for SBSEFs to establish rules

Various provisions of Regulation SE require SBSEFs to establish certain rules, policies, and procedures to comply with applicable requirements of the SEA and the Commission’s rules thereunder.⁸ The rules also will help an SBSEF’s members to understand and comply with requirements of the SBSEF.

c. Reporting requirements for SBSEFs

Various provisions of Regulation SE require SBSEFs and certain other persons to submit reports or provide specified information.⁹ This information generally will be used by the Commission in its oversight of SBSEFs and the SBS markets; certain of the information to be collected could be used by market participants to confirm their SBS transactions.

d. Recordkeeping required under Regulation SE

Regulation SE requires an SBSEF to keep specified records.¹⁰ The audit trail information required to be maintained under Regulation SE will aid the SBSEF in detecting and deterring fraudulent and manipulative acts with respect to trading on its market, as well as help it to fulfill the statutory requirement in Core Principle 4 that an SBSEF monitor trading in SBS, including through comprehensive and accurate trade reconstructions. In addition, Commission access to these records will provide a valuable tool to help the Commission carry out its oversight responsibility over SBSEFs and the SBS markets in general.

e. Timely publication of trading information requirement for SBSEFs

Regulation SE imposes certain publication burdens on SBSEFs in Rule 825.¹¹ The requirement contained in Rule 825 that an SBSEF have the capacity to electronically capture, transmit, and disseminate information on price, trading volume, and other trading data on all SBS executed on or through the SBSEF will assist the SBSEF in carrying out its regulatory responsibilities under the SEA and enable the SBSEF to comply with reasonable requests to provide information to others. Furthermore, Rule 825 requires an SBSEF to publish a Daily Market Data Report that is designed to provide market observers with a daily snapshot of market activity on the SBSEF.

⁸ See, e.g., Rule 819(a)(2) (requiring an SBSEF to establish and enforce trading, trade processing, and participation rules).

⁹ See, e.g., Rule 829 (requiring an SBSEF, quarterly or upon Commission request, to provide the Commission a report that includes the amount of financial resources necessary to meet the requirements of Rule 829).

¹⁰ See Rule 826 (requiring an SBSEF to maintain records of all activities relating to the business of the facility, including a complete audit trail, and to report information to the Commission upon request).

¹¹ See Rule 825 (requiring an SBSEF to make publicly available a “Daily Market Data Report”).

f. Rule filing and product filing processes for SBSEFs

Regulation SE establishes various filing requirements applicable to SBSEFs. Rules 804 and 805 provide mechanisms for an SBSEF to submit filings for new products that they seek to list either through a self-certification process or by voluntarily requesting approval of the Commission, respectively. Rules 806 and 807 require an SBSEF to submit new rule or rule amendments either through a self-certification process or by voluntarily requesting approval of the Commission, respectively. Rule 808 addresses confidential treatment of filings made under the self-certification procedures or pursuant to Commission review and approval. Rule 809 establishes procedures for addressing the situation where an SBSEF wishes to list a product and it is unclear whether the product properly falls under the jurisdiction of the SEC or the CFTC. Rule 810 provides that an applicant for registration as an SBSEF may submit for Commission review and approval an SBS's terms and conditions or rules prior to listing the product as part of its application for registration.

The information that will be collected under Rules 804 and 805 will help the Commission assess whether an SBS listed by an SBSEF complies with relevant provisions of the SEA. In addition, this information will assist the Commission in overseeing the SBSEF's compliance with its regulatory obligations generally and to learn about developments in the SBS product market. Rules 804 and 805 also provide a mechanism whereby market participants, other SBSEFs, other regulators, and the public generally could learn what products an SBSEF intends to list, and to obtain information regarding such products. The information that will be collected under Rules 806 and 807 will help the Commission assess whether a new rule or rule amendment of an SBSEF complies with relevant provisions of the SEA and assist the Commission in overseeing the SBSEF's compliance with its regulatory obligations generally. Rules 806 and 807 also will provide a mechanism whereby an SBSEF's members (and prospective members) could learn what new rules or rule amendments the SBSEF intends to apply in its market.

The information collected under Rules 809 and 810 will help the Commission assess an SBSEF's compliance with relevant provisions of the SEA and assist the Commission in overseeing the SBSEF's compliance with its regulatory obligations. This information also will be useful to the SBSEF's members because they will be subject to such new or amended rules or products and thus would have an interest in learning about those rules or products. Other market participants, other SBSEFs, and other regulators, as well as the public generally, may find information about proposed new or amended rules or products useful.

g. Requirements relating to the CCO

Regulation SE includes Rule 831, which sets out requirements relating to an SBSEF's Chief Compliance Officer ("CCO"). The information that will be collected under Rule 831 will help ensure compliance by SBSEFs with relevant provisions of the SEA and assist the Commission in overseeing SBSEFs generally. The Commission would be able to use the annual compliance report to help it evaluate whether an SBSEF is carrying out its statutorily-mandated regulatory obligations and, among other things, to discern the scope of any denials of access or refusals to grant access by the SBSEF and to obtain information on the status of the SBSEF's regulatory compliance program. The SBSEF's financial reports will provide the Commission with important information on the financial health of the SBSEF.

h. Surveillance systems requirements for SBSEFs

The rules that will require an SBSEF to maintain surveillance systems and to monitor trading¹² are designed to promote compliance by an SBSEF with its obligations under the SEA to oversee trading on its market, and to prevent manipulation and other unlawful activity or disruption of its market.

3. Consideration Given to Improved Information Technology

Under Regulation SE, various provisions require registered SBSEFs (or SBSEF applicants) to file specified information electronically with the Commission, in a form and manner required by the Commission. Certain exhibits to Form SBSEF and other submission will be required to be submitted electronically via the Commission's EDGAR system using Inline XBRL. Requiring SBSEFs to file this information in EDGAR will provide the Commission and the public with a centralized, publicly accessible electronic database for the information, thereby facilitating its use. EDGAR will also enable technical validation of the disclosures, thus potentially reducing the incidence of non-discretionary errors (e.g., including text for a disclosure that should contain only numbers). Moreover, requiring Inline XBRL tagging of the reported disclosures will facilitate retrieval, aggregation, and comparison of the reported information across different SBSEFs and time periods. Other items will be required to be submitted electronically via EDGAR but require the use of a custom XML data language rather than Inline XBRL. The Commission is requiring some disclosures to be structured in Inline XBRL, and other disclosures to be structured in custom XML because the Commission believes Inline XBRL is well-suited for certain types of content—such as financial statements and extended narrative discussions—whereas other types of content can be readily captured using custom XML data languages that yield smaller file sizes than Inline XBRL and thus facilitate more streamlined data processing. Certain documents such as copies of by-laws and written agreements could be submitted as unstructured PDF attachments to the otherwise structured filings. Lastly, rule and product filings under Rules 804 through 807 will be required to be submitted through the Commission's Electronic Form Filing Systems ("EFFS") electronically in an unstructured format. This will align the process for these filings with the process for filings by other regulated entities (namely, self-regulatory organization) that also use the EFFS system.

4. Duplication

The adopted amendments do not result in, or require the collection of, duplicate information that is otherwise available in a similar form.

5. Effects on Small Entities

Most of Regulation SE, and the related rules and rule amendments, will apply to registered SBSEFs (or entities that are seeking to register with the Commission as SBSEFs). In the Dodd-Frank Act, Congress defined SBSEFs as a new type of trading venue for SBS and mandated the registration of these entities. The Commission believes that most, if not all,

¹² See, e.g., Rule 819(d)(3) (requiring an SBSEF to establish and maintain sufficient compliance staff and resources).

SBSEFs will be large business entities or subsidiaries of large business entities, and that every SBSEF (or its parent entity) will have assets in excess of \$5 million and annual receipts in excess of \$41,500,000. Therefore, the Commission believes that none of the potential SBSEFs will be considered small entities.

Rule 833 describes how foreign SBS trading venues could become exempt from the SEA definitions of “exchange,” “security-based swap execution facility,” and “broker” and how SBS executed on a foreign trading venue could become exempt from the SEA’s trade execution requirement for SBS. Any such requests will likely be submitted by foreign SBS trading venues, foreign authorities that license and regulate those trading venues, or covered persons (as defined in Rule 832) who are members of such trading venues. Based on the Commission’s existing information about the SBS market, the Commission believes that no person likely to request an exemption order pursuant to Rule 833 will be considered a small entity. The Commission believes that most, if not all, of the persons requesting exemptions will be large business entities or subsidiaries of large business entities, each of which, on its own or through its parent entity, will have assets in excess of \$5 million (or in the case of a broker-dealer, total capital of less than \$500,000) and annual receipts in excess of \$41,500,000.

Certain rules in Regulation SE apply to SBS exchanges. Based on the Commission’s existing information about national securities exchanges, the Commission believes that the entities likely to be considered SBS exchanges will not be considered small entities. The Commission believes that any SBS exchange will have annual receipts in excess of \$41,500,000.

6. Consequences of Not Conducting Collection

As mentioned above, the information collected pursuant to these rules will enhance the ability of the Commission to determine whether to approve the registration of an entity as an SBSEF; to monitor and oversee SBSEFs; to determine that SBSEFs initially comply, and continue to operate in compliance, with the SEA, including the Core Principles applicable to SBSEFs; to carry out its statutorily mandated oversight functions; and to maintain accurate and updated information regarding SBSEFs. Because the registration information will be publicly available, it could also be useful to an SBSEF’s members, other market participants, other regulators, and the public generally. Absent the collection, these goals would become much more difficult if not impossible to accomplish.

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

The rules require an SBSEF to maintain records of all activities relating to the business of the facility, including a complete audit trail, in a form and manner acceptable to the Commission for a period of five years. This time period is consistent with existing requirements for national securities exchanges and national securities associations pursuant to Rule 17a-1 under the SEA.¹³ There are no other special circumstances, and this collection is otherwise consistent with the guidelines in 5 CFR 1320.5(d)(2).

¹³ See 17 CFR 240.17a-1.

8. Consultations Outside the Agency

The required Federal Register notice with a 30-day comment period soliciting comments on this collection of information was published.¹⁴ No public comments addressing the PRA or the Commission's preliminary burden estimates were received. The Commission did, however, receive a number of comments on the proposed rules. These commenters' concerns are discussed herein only to the extent that they resulted in the Commission modifying a rule or rules that have collections of information. Specifically, certain commenters' concerns pertaining to Rules 804, 815, 819, 825, and 834 are referenced below in the respective sections discussing the estimated burdens associated with these rules. However, the changes did not result in a net increase or decrease in the estimated burden hours for any of the rules.

9. Payment or Gift

No payment or gift is provided to respondents.

10. Confidentiality

The information collection does not collect personally identifiable information. The agency has determined that neither a PIA nor a SORN are required in connection with the collection of information.

11. Sensitive Questions

Under the rule, certain submissions will require the name and title of a duly authorized person to make submissions for the respondents. The name and title are the only personally identifiable information to be collected. Therefore, a SORN and a PIA are not required for this information collection.

12. Burden of Information Collection

The amendment establishes 12 new collections of information, which are listed in the table below. The new hour burdens will be a program change due to agency discretion as they result from Commission rules adopted under the SEA. Each of the collections of information is explained further in the discussion.

¹⁴ See Rules Relating to Security-Based Swap Execution and Registration and Regulation of Security-Based Swap Execution Facilities (Proposed Rule), SEA Release No. 94615 (Apr. 6, 2022), 87 FR 28872 (May 11, 2022).

Name of Information Collection	Type of Burden ¹⁵	Number of Entities Impacted	Small Business Entities Affected	Initial Burden Annualized per Entity per Response	Ongoing Burden per Entity per Response	Response per Year	Total Annual Burden Per Entity	Total Annual Industry Burden
Registration (Rule 803, Form SBSEF)	Reporting	5	0	98.33 ¹⁶	0	1	98.33	491.67
Rules modeled on 17 CFR part 37 (other than registration)	Reporting	5	0	0	387	1	387	1,935
Rule and product filing processes including cover sheet (Rules 804-807) modeled on 17 CFR part 40	Reporting	5	0	0	60	1	60	300
Rule 809	Reporting	5	0	0	0.25	1	0.25	1.25
Rule 811(d)	Reporting	5	0	0	0.25	1	0.25	1.25
Rule 819(i)	Reporting	5	0	0	79.83	1	79.83	399.15
Rule 819(j)	Reporting	5	0	0	.5	1	.5	2.5
Rule 826(f)	Record-keeping	5	0	0	.4	1	.4	2
Rule 833	Reporting	7	0	26.66	0	1	26.66	186.67
Rule 834(b)-(c)	Record-keeping	8	0	5 ¹⁷	0	1	5	40
Rule 834(d)-(g)	Reporting	8	0	0	3.25	1	3.25	26
Rule 835	Reporting	5	0	0	0.75	12	9	45

¹⁵ The Commission notes that certain collections can contain characteristics of reporting, third-party disclosure, and/or recordkeeping. In such instances, Commission staff made a determination as to which is the predominant characteristics and classified the collection as such.

¹⁶ This represents an initial burden of 295 hours discussed in the Regulation SE Adopting Release, *supra* note 1, 88 FR at 87273, divided by three for the length of the three year renewal period.

¹⁷ This represents an initial burden of 15 hours discussed in the Regulation SE Adopting Release, *supra* note 1, 88 FR at 87277, divided by three for the length of the three year renewal period.

a. Registration (Rule 803, Form SBSEF)

A submission by an entity wishing to register with the Commission as an SBSEF is required to be made on Form SBSEF, pursuant to Rule 803, on a one-time basis. The Commission estimates that five entities initially will seek to register with the Commission as SBSEFs. These entities will incur initial, one-time burdens for registration, because once an entity is registered as an SBSEF, its registration obligations are complete. The Commission's estimate regarding the initial burden that an entity will incur to file a Form SBSEF is informed by the estimates made by the CFTC for the completion of Form SEF and compliance with § 37.3 of the CFTC regulations (which governs registration of SEFs).¹⁸ Form SBSEF requests almost exactly the same information as required by Form SEF. Rule 803 is substantially similar to § 37.3. The CFTC has estimated that the initial compliance burden associated with its registration requirements in § 37.3 and Form SEF to be 295 hours per SEF applicant (or 98.33 hours, i.e., 295 divided by 3 for the three-year renewal period).¹⁹ For purposes of calculating burden hours, the CFTC considered the entire SEF application process to constitute a single information collection; the Commission is utilizing the same approach for SBSEFs.

The Commission estimates that each Respondent will incur an initial one-time annual reporting burden of approximately 98.33 hours, for an aggregate initial one-time annual industry reporting burden for all five Respondents of approximately 491.67 hours.²⁰

b. Rules modeled on CFTC part 37 (other than registration)

The CFTC has estimated that the compliance burden for all of the sections of part 37 combined, other than the initial burden of 295 hours per SEF for registration-related compliance discussed above, to be an ongoing annual burden of 387 hours per SEF.²¹ With the exception of § 37.600 of the CFTC's regulations,²² which implements a CEA Core Principle for SEFs relating to position limits that is not in the SEA, every other section of part 37 has an analog in Regulation SE that is substantively similar.²³ Therefore, the Commission estimates that the

¹⁸ 17 CFR 37.3.

¹⁹ See OMB, Supporting Statement for New and Revised Information Collections: Core Principles and Other Requirements for Swap Execution Facilities, OMB Control Number 3038-0074, Attachment A (July 7, 2021), available at <https://omb.report/icr/202107-3038-004/doc/113431800.pdf>. (“July 2021 OMB CFTC Supporting Statement”).

²⁰ 98.33 hours per respondent x 5 respondents = 491.67 hours.

²¹ See July 2021 OMB Supporting Statement, *supra* note 19, at 8 (estimating that on a net basis the total burden hours imposed on each SEF will be 387 hours).

²² 17 CFR 37.600.

²³ Portions of the CFTC guidance have been incorporated into certain rules being adopted by the Commission in Regulation SE. The CFTC guidance clarifies portions of its rules by suggesting means for compliance and does not fundamentally alter those rules. Therefore, the Commission believes that no adjustments to the CFTC burden estimates,

aggregate CFTC estimate of 387 hours per SEF per year serves as a reasonable estimate for the annual hourly burden on each SBSEF. For reference, the following table lists all sections of part 37 not related to registration and the corresponding SBSEF rule.

Section of 17 CFR part 37 (387 aggregate burden hours per SEF not including § 37.3 (registration))	Topic	Analogous SBSEF Rule (387 aggregate burden hours per SBSEF not including Rule 803 (registration) and certain other rules not modeled on part 37 rules (discussed separately in the following sections))
37.1	scope	800
37.2	applicable provisions	801
37.4	procedures for listing products	810
37.5	compliance	811
37.6	enforceability	812
37.7	prohibited use of data	813
37.8	entities operating as SEFs and DCMs	814
37.9	methods of execution	815
37.10	process to make swaps available for trade	816
37.11	reserved section	not applicable
37.12	trade execution compliance schedule	817
37.100	CP 1 (compliance with Core Principles)	818 (CP1)
37.200-37.206	CP 2 (compliance with rules)	819 (CP2)
37.300-37.301	CP 3 (manipulation)	820 (CP3)
37.400-37.408	CP 4 (monitoring of trading and trade processing)	821 (CP4)
37.500-37.504	CP 5 (ability to obtain information)	822 (CP5)
37.600-37.601	CP 6 (position limits)	no equivalent requirement in the SEA; CP numbering diverges after this point

on which the Commission is basing its own estimates, would be appropriate as a result of adapting the CFTC guidance into the Commission's rules.

37.700-37.703	CP 7 (financial integrity of transactions)	823 (CP6)
37.800-37.801	CP 8 (emergency authority)	824 (CP7)
37.900-37.901	CP 9 (publication of trading information)	825 (CP 8)
37.1000-37.1001	CP 10 (recordkeeping and reporting)	826 (CP 9)
37.1100-37.1101	CP 11 (anti-trust)	827 (CP10)
37.1200	CP 12 (conflicts of interest)	828 (CP 11)
37.1300-37.1307	CP 13 (financial resources)	829 (CP 12)
37.1400-37.1401	CP 14 (system safeguards)	830 (CP 13)
37.1400-1501	CP 15 (CCO)	831 (CP 14)
Appendix A (Form SEF)	Form SEF	Form SBSEF ²⁴
Appendix B	Guidance relating to Core Principles	Guidance incorporated throughout rules 818-831

In response to comments received, the Commission revised Rules 815, 819, and 825 prior to adoption. The remainder of the rules in the table above were not revised. As described in more detail in the following paragraphs, the revisions did not result in a net increase or a net decrease in the burden hours for Rules 815, 819, and 825. Therefore, the aggregate estimate for this collection did not change.

Rule 815 generally addresses how transactions are executed on an SBSEF. Paragraph (d) provides an exception for “package transactions” that allows for flexible methods of execution. In response to concerns expressed by commenters, the Commission modified Rule 815(d) to narrow the scope of the exception. Another commenter expressed concerns about the identity of parties to a trade being revealed even in cases where a trade that was intended to be cleared was not accepted for by a clearing agency. To address this concern, the Commission added section (g) to declare such trades void from the outset. Lastly, the Commission removed several mentions of the term “block trade” from Rule 815 before adoption, as that term will be reserved and not defined in Regulation SE. None of these changes increase or decrease the hours burden associated with this rule.

Rule 819 generally addresses compliance with the core principles enumerated in Regulation SE. Paragraph (e) addresses what type of entities can be contracted to provide regulatory services for an SBSEF. In response to a commenter’s request, the Commission amended Rule 819(e) before adoption to permit “Designated Contract Markets” to provide such services. The Commission also added section (c)(4) and (g)(14) to Rule 819 to address Commission review of certain actions taken by an SBSEF. This new flexibility does not increase or decrease the hours burden associated with this rule.

²⁴ The burdens of registering using Form SBSEF are discussed in the previous section.

Rule 825 generally addresses the publication of certain trading information. Paragraph (c) requires the publication on an SBSEF of a “Daily Market Data Report.” Several commenters expressed concerns about the content and the timing of publication of the Daily Market Data Report. In response to comments, the Commission modified Rule 825 prior to adoption to make changes to what type of information is required to be submitted in the report and also to adjust the timing of publication of the report. Additionally, the Commission removed several mentions of the term “block trade” from Rule 825 before adoption, as that term will be reserved and not defined in Regulation SE. These changes do not increase or decrease the hours burdens associated with this rule.

The Commission estimates that each Respondent will incur an ongoing reporting burden of approximately 387 hours, for an aggregate annual industry reporting burden for all five Respondents of approximately 1,935 hours.²⁵

- c. Rule and product filing processes including cover sheet (Rules 804-807) modeled on CFTC part 40

A number of rules contained in Regulation SE are modeled after rules in part 40 of the CFTC’s rules, including §§ 40.2 (Listing products for trading by certification), 40.3 (Voluntary submission of new products for Commission review and approval), 40.5 (Voluntary submission of rules for Commission review and approval), and 40.6 (Self-certification of rules). The Commission adopted Rules 804, 805, 806, and 807—which are closely modeled on §§ 40.2, 40.3, 40.5, and 40.6, respectively—in order to harmonize with the procedures that the CFTC applies to SEFs with respect to establishing new rules and listing products. In addition, Rule 808 is modeled after § 40.8 and provides that certain information in a Form SBSEF application or a rule or product filing would be made publicly available, notwithstanding the SBSEF’s request for confidential treatment. The Commission preliminarily estimated that each Respondent would incur an ongoing reporting burden of approximately 60 hours, for an aggregate annual industry reporting burden for all five Respondents of approximately 300 hours.²⁶

In response to concerns expressed by commenters, the Commission provided additional clarification in the Regulation SE Adopting Release, explaining that, where a respondent is seeking to list a new category of product of which there would be multiple specific products based on different underlying securities, separate submissions under Rule 804 with respect to each underlying security would not necessarily be required, but a submission made with respect to multiple underlying securities would have to address why each of the included underlying securities meets the relevant standards required by Regulation SE. “Blanket” certifications—e.g., a single submission for all equity total return security-based swaps to be listed—would not meet the requirements of Rule 804. The Commission does not believe that this flexibility will result in any increase or decrease in burden hours. Any time savings from the ability to combine submissions under Rule 804 is likely to be substantially, if not fully, offset by the burden of drafting the explanation of why each of the included underlying securities meets the relevant standards required by Regulation SE. Therefore, the changes do not increase or decrease the

²⁵ 387 hours per respondent x 5 respondents = 1,935 hours.

²⁶ 60 hours per respondent x 5 respondents = 300 hours.

burden hours for compliance with the rules pertaining to new product filings under Rules 804 and 805. Indeed, as described above, the per-respondent estimate for the requirements related to the rule and product filing processes of 60 hours was an estimate informed by the CFTC's similar provisions and was meant to encompass the combined burdens that an SBSEF would incur to comply with the rule and product filing processes in Rules 804, 805, 806, and 807. Therefore, the Commission continues to estimate the per-respondent and aggregate totals to be 60 hours and 300 hours, respectively.

The Commission estimates that each Respondent will incur an ongoing reporting burden of approximately 60 hours, for an aggregate annual industry reporting burden for all five Respondents of approximately 300 hours.²⁷

d. Rule 809

Rule 809 is loosely modeled on § 40.12 of the CFTC's rules and sets forth a mechanism for addressing a situation where an SBSEF wishes to list a novel derivative product and it is unclear whether the product properly falls under the jurisdiction of the SEC or the CFTC. Rule 809 provides a mechanism for the staying or tolling of a filing by an SBSEF relating to a product while the appropriate jurisdictional classification of that product is determined.

The Commission estimates that each Respondent will incur an ongoing reporting burden of approximately .25 hour, for an aggregate annual industry reporting burden for all five Respondents of approximately 1.25 hours.²⁸

e. Rule 811(d)

Section 1.60 of the CFTC's rules requires a SEF to provide the CFTC with copies of any legal proceeding to which it is a party, or to which its property or assets is subject. Paragraph (d) of Rule 811 adapts paragraphs (a), (c), and (e) of § 1.60 to apply to SBSEFs. Paragraph (d)(1) requires an SBSEF to provide the Commission a copy of the complaint, any dispositive or partially dispositive decision, any notice of appeal filed concerning such decision, and such further documents as the Commission may thereafter request filed in any material legal proceeding to which the SBSEF is a party or its property or assets is subject. Paragraph (d)(2) requires an SBSEF to provide notices of similar actions against any officer, director, or other official of the SBSEF from conduct in such person's capacity as an official of the SBSEF alleging violations of certain enumerated actions.

The Commission estimates that each Respondent will incur an ongoing reporting burden of approximately 0.25 hours, for an aggregate annual industry reporting burden for all five Respondents of approximately 1.25 hour.²⁹

²⁷ 60 hours per respondent x 5 respondents = 300 hours.

²⁸ 0.25 hour per respondent x 5 respondents = 1.25 hours.

²⁹ 0.25 hours per respondent x 5 respondents = 1.25 hour. Although the Commission received no comments on this part of the collection, the Commission has adjusted its estimate from 0.20 hours per respondent to 0.25 hours per respondent because the CFTC

f. Rule 819(i)

Paragraph (i) of Rule 819 bars persons with specified disciplinary histories from serving on the governing board or committees of an SBSEF and imposes certain other duties on the SBSEF associated with that fundamental requirement. Rule 819(i) is modeled on § 1.63 of the CFTC's rules. The Commission estimates that an SBSEF will provide the information required by Rule 819(i) once per year, and that each submission will take 79.83 hours. The Commission is basing its estimate on the one that the CFTC included in its submission to OMB for its adoption of § 1.63, where the CFTC estimated that each respondent would make, on average, one submission to the CFTC per year. The CFTC further estimated that the time required to prepare one submission is approximately 79.83 hours.³⁰

The Commission estimates that each Respondent will incur an ongoing reporting burden of approximately 79.83 hours, for an aggregate annual industry reporting burden for all five Respondents of approximately 399.15 hours.³¹

g. Rule 819(j)

Paragraph (j) of Rule 819 is modeled on § 1.67 of the CFTC's rules. Rule 819(j)(1) provides that, upon any final disciplinary action in which an SBSEF finds that a member has committed a rule violation that involved a transaction for a customer, whether executed or not, and that resulted in financial harm to the customer, the SBSEF must promptly provide written notice of the disciplinary action to the member.

The Commission estimates that an SBSEF will need 0.5 hours to prepare a notice and provide it to a member. This estimate is based on a previous Commission estimate for the time that it would take to prepare and submit a simple notice.³² The Commission estimates that these notices will occur once per year at each SBSEF. The estimate of once per year is based on a previous CFTC estimate included in its submission to OMB for § 1.67 along with other rules.

made a similar adjustment in 2021 to its analogous rule in § 1.60 of the CFTC's rules. See OMB, Supporting Statement for New and Revised Information Collections: OMB Control Number 3038-0033 (Oct. 29, 2021), available at <https://omb.report/icr/202110-3038-001/doc/115991000.pdf>.

³⁰ See CFTC, *Service on Self-Regulatory Organization Governing Boards or Committees by Persons with Disciplinary Histories* (Feb. 27, 1990), 55 FR 7884, 7890 (Mar. 6, 1990) (final rule PRA for § 1.63).

³¹ 79.83 hours per respondent x 5 respondents = 399.15 hours.

³² Rule 819(j) would not address any of the requirements or process concerning taking final disciplinary actions; it merely requires that a notice be provided. A provision of Regulation SCI, Rule 1000(b)(4)(i), also requires providing a simple notice and the Commission estimated that it would take 0.5 hours to prepare and such a notice. See *Regulation Systems Compliance and Integrity; Final Rule*, SEA Release No. 73639 (Nov. 19, 2014), 79 FR 72251, 72381 (Dec. 5, 2014).

The Commission estimates that each Respondent will incur an ongoing reporting burden of approximately 0.5 hours, for an aggregate annual industry reporting burden for all five Respondents of approximately 2.5 hours.³³

h. Rule 826(f)

Rule 826(f) is modeled on § 1.37(c) of the CFTC’s rules and requires an SBSEF to keep a record in permanent form, which shall show the true name, address, and principal occupation or business of any non-U.S. member that executes transactions on the SBSEF and must, upon request, provide to the Commission information regarding the name of any person guaranteeing such transactions or exercising any control over the trading of such non-U.S. member.

The Commission estimates that each SBSEF will need to update information required by Rule 826(f) once per year, and that each submission will take 0.4 hours. The Commission is basing its estimate on the estimate included by the CFTC in its submission to OMB regarding § 1.37(c) of the CFTC’s rules, where the CFTC estimated that it would take a SEF 0.4 hours to prepare each record in accordance with regulation § 1.37(c).

The Commission estimates that each Respondent will incur an ongoing recordkeeping burden of approximately 0.4 hours, for an aggregate annual industry recordkeeping burden for all five Respondents of approximately 2 hours.³⁴

i. Rule 833

Rule 833 describes how foreign SBS trading venues (or persons acting on their behalf) could obtain exemptions from the SEA definitions of “exchange,” “security-based swap execution facility,” and “broker” and how SBS executed on a foreign trading venue could become exempt from the SEA’s trade execution requirement. Based on the CFTC’s experience in the SEF market, the Commission estimates that there will be three requests for an exemption order under either or both paragraphs (a) and (b) of Rule 833 in the first year and 2 requests in each subsequent year; and that each submission will require an initial, one-time burden of 80 hours.³⁵ Once an exemption has been granted to an applicant, no further action is required. Therefore, during the renewal period, the Commission estimates 7 respondents (3 in year 1, 2 in year 2, and 2 in year 3). All 7 respondents will not incur burdens immediately at the beginning on the renewal period, however, as a conservative estimate, and because it is not certain when respondents will incur burdens, the Commission is assuming that all 7 respondents will incur the 80 hour burden (80 hours total, 26.67 hours annualized over the three-year renewal period).

The Commission estimates that each Respondent will incur an initial one-time annualized reporting burden of approximately 26.67 hours, for an aggregate initial one-

³³ 0.5 hours per respondent x 5 respondents = 2.5 hours.

³⁴ 0.4 hours per respondent x 5 respondents = 2 hour.

³⁵ See Regulation SE Proposing Release, *supra* note 1, 87 FR at 28968.

time annualized industry reporting burden for all seven Respondents of approximately 186.67 hours.³⁶

j. Rule 834(b)-(c)

Rule 834 provides that each SBSEF and SBS exchange must create and maintain rules to mitigate conflicts of interest between SBSEFs and SBS exchanges and their members, including by prohibiting members from owning 20% or more of the voting rights of an SBSEF or SBS exchange and from exercising disproportionate influence in disciplinary proceedings. Rule 834 also requires each SBSEF and SBS exchange to submit to the Commission after every governing board election a list of each governing board's members, the groups they represent, and how the composition of the board complies with the requirements of Rule 834. Paragraph (b) sets forth details concerning the 20% cap and paragraph (c) includes requirements designed to reinforce the 20% cap in paragraph (b). The Commission preliminarily estimated that proposed Rules 834(b) and (c) together would have an initial, one-time paperwork burden of 15 hours per entity, or 5 hours annualized (i.e., 15 hours divided by three for the three-year renewal period), associated with drafting and implementing any such rules. The estimated number of entities is 8.³⁷

In response to concerns expressed by commenters, the Commission modified Rule 834 by adding new paragraph (b)(3) to provide an exemption from the 20% cap for an SBSEF that has entered into an agreement with a registered futures association or a national securities association for the provision of regulatory services that encompass, at a minimum, real-time market monitoring and investigations and investigation reports. The Commission does not believe that the addition of paragraph (b)(3) affects its preliminary burden estimate. Specifically, the modification does not affect the information collection under this rule, as it does not involve any record keeping, reporting, or third-party disclosure obligations. Thus, the Commission is not altering its estimate of an initial, one-time paperwork burden of 15 hours per entity, or 5 hours annualized (i.e., 15 hours divided by three for the three-year renewal period). The estimated number of entities is 8.³⁸

The Commission estimates that each Respondent will incur an initial one-time annual recordkeeping burden of approximately 5 hours, for an aggregate initial one-time annual industry recordkeeping burden for all eight Respondents of approximately 40 hours.³⁹

k. Rule 834(d)-(g)

Paragraph (d) of Rule 834 is designed to mitigate conflicts of interest in the disciplinary process of an SBSEF or SBS exchange. Paragraph (e) requires each SBSEF and SBS exchange to ensure that 20% or more of the persons who are eligible to vote routinely on matters being

³⁶ 26.67 hours per respondent x 7 respondents = 186.67 hours.

³⁷ These entities consist of 5 SBSEFs and 3 SBS exchanges.

³⁸ These entities consist of 5 SBSEFs and 3 SBS exchanges.

³⁹ 15 hours per respondent x 8 respondents = 120 hours.

considered by the governing board are persons who are knowledgeable of SBS trading or financial regulation, or otherwise capable of contributing to governing board deliberations. It also requires each SBSEF and SBS exchange to ensure that membership of its governing board includes a diversity of groups or classes of its members. Paragraph (f) of Rule 834 requires each SBSEF and SBS exchange to submit to the Commission, within 30 days after each governing board election, a list of the governing board's members, the groups or classes of members that they represent, and how the composition of the governing board otherwise meets the requirements of Rule 834. Paragraph (g) of Rule 834 requires an SRO to further address the avoidance of conflicts of interest in the execution of its self-regulatory functions.

The Commission estimates that each Respondent will incur an ongoing reporting burden of approximately 3.25 hours, for an aggregate annual industry reporting burden for all eight Respondents of approximately 26 hours.⁴⁰

1. Rule 835

Rule 835 provides that, if an SBSEF issues a final disciplinary action against a member, or takes final action with respect to a denial or conditioning membership, or takes final action with respect to a denial or limitation of access of a person to any services offered by the SBSEF, the SBSEF shall file a notice of such action with the Commission within 30 days and serve a copy on the affected person. The Commission estimates that it will take 0.5 hours to prepare this notice and provide it to the Commission and the affected person. This estimate is based on a previous Commission estimate for the time that it would take to prepare and submit a simple notice.⁴¹ The Commission believes that it will take an additional 0.25 hours to create and serve a copy of that notice on the affected person. The Commission estimates that there will be 5 respondents. The Commission estimates that each respondent will make a response monthly resulting in 12 responses per year per respondent.

The Commission estimates that each Respondent will incur an ongoing reporting burden of approximately 9 hours, for an aggregate annual industry reporting burden for all five Respondents of approximately 45 hours.⁴²

13. Costs to Respondents

The Commission does not estimate any costs to respondents.

⁴⁰ 3.25 hours per respondent x 8 respondents = 26 hours.

⁴¹ A provision of Regulation SCI, Rule 1000(b)(4)(i), also requires providing a simple notice, and the Commission estimated that it would take 0.5 hours to prepare and such a notice. *See Regulation Systems Compliance and Integrity; Final Rule*, SEA Release No. 73639 (Nov. 19, 2014), 79 FR 72251, 72381 (Dec. 5, 2014).

⁴² 12 responses annually (once per month) per respondent x .75 hours per response x 5 respondents = 45 hours.

14. Cost to Federal Government

The federal government will not incur a cost in connection with the collection of this information.

15. Changes in Burden

The only change to the burdens estimates is in Rule 811(d). The per respondent burden of Rule 811(d) was increased from 0.20 hours to 0.25 per respondent due to a similar upward revision in the analogous CFTC rule (§ 1.60 of the CFTC’s rules). This revision resulted in a yearly increase of .25 hours ((0.25-0.20) x 5 respondents) from 1 hour annually to 1.25 hours annually. The new revised figure is reflected in the chart at the beginning of Section 12 of this supporting statement.⁴³ We also modified the information collection titles to remove the word “proposed” to reflect that the revisions have been adopted.

16. Information Collection Planned for Statistical Purposes

Not applicable. The information collection is not used for statistical purposes.

17. OMB Expiration Date Display Approval

The Commission is not seeking approval to not display the OMB approval expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.

⁴³ The burden is still shown in ROCIS as 1 hour, as burdens are rounded to the nearest whole number.