

**SUPPORTING STATEMENT FOR  
REVISED INFORMATION COLLECTION**

**SWAP CONFIRMATION REQUIREMENTS FOR SWAP EXECUTION FACILITIES**

**OMB CONTROL NUMBER 3038-0074**

**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.**

Commodity Exchange Act (“CEA”) section 5h sets forth the requirements concerning the registration and operation of swap execution facilities (SEFs), which the Commission has implemented in part 37 of its regulations.<sup>1</sup> The information collections under this Control Number are necessary for the Commission to evaluate whether SEFs, or entities applying to become SEFs, comply with the part 37 regulatory requirements.<sup>2</sup>

CFTC regulations require a Swap Execution Facilities (SEF) to provide each counterparty to a swap transaction, whether cleared or uncleared, that is entered into on or pursuant to the rules of the SEF, with a written “confirmation” that contains all of the terms of the transaction. 17 CFR 37.6(b). With respect to an uncleared swap transaction, a SEF may comply with the requirement to include in the confirmation all of the terms of the transaction, by incorporating by reference relevant terms set forth in underlying, previously-negotiated agreements between the counterparties, as long as the SEF has obtained these agreements prior to execution of the transaction.

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<sup>1</sup> OMB Control Number 3038-0074 covers all information collections in part 37 of the Commission’s regulations, including the information collections in Subpart A and the SEF core principles (*i.e.*, Subparts B and C). However, any information collections related to § 37.10 of the Commission’s regulations are subject to a separate information collection with OMB control number 3038-0099 (Process for a Swap Execution Facility or Designated Contract Market to Make a Swap Available to Trade).

<sup>2</sup> Among other requirements, part 37 of the Commission’s regulations imposes SEF registration requirements for a trading platform or system, and requires SEFs to continually be in compliance with fifteen enumerated core principles. The fifteen core principles establish standards with respect to SEFs: enforcing rules; listing contracts for trading that are not readily susceptible to manipulation; monitoring trading to prevent market manipulation; obtaining information; adopting position limits or position accountability levels; adopting rules to enforce financial integrity of swaps transactions entered on or through the SEF; adopting rules to provide for the exercise of emergency authority, in consultation with the Commission; making public information regarding prices and volume on a timely basis; maintaining records of all activities of the business of the contract market in a form and manner acceptable to the Commission for five years; avoiding rules that result in unreasonable restraints of trade or anticompetitive burden on trading; enforcing rules to minimize conflicts of interest in its decision-making process; maintaining adequate financial resources; establishing system safeguards; and designating a chief compliance officer.

- 2. Indicate how, by whom, and for what purpose the data would be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The information is used by the Commission to determine whether SEFs, and applicants seeking registration as a SEF with the Commission, are in compliance with applicable core principles and all other part 37 requirements.

The information collection for swap confirmations under § 37.6(b) ensure legal certainty of transactions by requiring SEFs to provide each counterparty to a transaction that is executed on or pursuant to the rules of the SEF with a written record of all of the terms of the transaction which shall legally supersede any conflicting terms of a previous agreement and serve as a confirmation of the transaction.

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

All required submissions by SEFs to the Commission must be submitted electronically, including the access and disciplinary notice information. All required information to be provided to the public may be posted on the SEF's website.

The information collection for swap confirmations under § 37.6(b) is technology neutral allowing the SEF to choose the most efficient and effective method by which to provide a swap confirmation.

- 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.**

Information collected under this collection is not already collected by the Commission for any other purpose, nor is it collected by any other agency, nor is the information available from any other source.

Information collected pursuant to the confirmation requirement under § 37.6(b) is not available from any other source than the SEF where the transaction is executed.

- 5. If the collection of information involves small business or other small entities (Item 5 of OMB Form 83-I), describe the methods used to minimize burden.**

The required information collected under this OMB Control Number 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.**

Less frequent information collections would impair the Commission's oversight ability and harm the Commission's stated mission to foster open, transparent, competitive, and financially sound markets.

For the information collection for swap confirmations under § 37.6(b), less frequent information collections could impair the legal certainty of transactions for market participants as well as diminish the accuracy for counterparties regarding exposure levels with other counterparties which could harm the Commission's stated mission to foster open, transparent, competitive, and financially sound markets.

**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;**

This information collection allows the Commission to request information from respondents on occasional basis, but does not require respondents to report information to the agency more often than quarterly.

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

This information collection does not require respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

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

Respondents are not required to submit more than an original and two copies of any documents.

- **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 and Core Principle 10 (Recordkeeping) require 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.

- **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;**

This information collection does not involve a statistical survey.

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

This information collection does not involve the use of any statistical data.

- **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**

This information collection does not involve any pledge of confidentiality.

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

This information collection does not require respondents to submit proprietary trade secrets, or other confidential information to the Commission.

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.**

**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.**

On December 26, 2024, the Commission published in the Federal Register notice of the proposed extension of this information collection and provided 60 days for public

comment on the proposed extension, 89 FR 105012 (“60-Day Notice”). The Commission did not receive any relevant comments on the 60-Day Notice.

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

The question is not applicable.

**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 is subject to 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 questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The regulations covered by this collection do not require the provision of sensitive information, 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.**

*See Attachment A.*

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

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

It is expected that SEFs utilize existing software, information technology, and systems to comply with the information collection requirements included in this collection. Thus, the Commission believes that there no additional capital/startup costs or operational/maintenance costs entailed in complying with report the information collection requirements.

- 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 information collections do not impose any additional costs to the Federal Government.

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

There are no program changes. The Commission has updated its burden estimates for this collection. The total number of estimated responses has increased to 7,829,147, based on updated reporting data. Based on consultations with industry participants, the Commission understands that the large majority of swap confirmations (which makes up the bulk of responses in this collection) are provided via highly automated reporting systems. Accordingly, the total burden associated with the collection remains largely consistent with prior estimates. The Commission's estimate of burden associated with this collection has decreased from 15,615 to 15,499.

In addition, the Commission is consolidating the Information Collections in this collection under the main IC titled "Core Principles and Other Requirements for Swap Execution Facilities" and removing the second IC titled "37.6(b) - Confirmation Requirement for registered SEFs." Accordingly, the total burden for this collection is now reflected under the IC titled "Core Principles and Other Requirements for Swap Execution Facilities."

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

This question does not apply.

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

This question does not apply.

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

No exceptions exist.



**OMB Control Number 3038-0074**

Attachment A includes both (1) a discussion of the Commission’s assumptions and methodology in determining its burden estimates and (2) tables listing the individual information collection estimates and related burdens for both respondent SEFs and applicants for SEF registration.

**Scope and Applicability of Information Collections**

OMB Control Number 3038-0074 covers all information collections in part 37, including Subpart A and the SEF core principles (*i.e.*, Subparts B through P) as well as the related appendices thereto (*i.e.*, Appendix A—Form SEF, Appendix B— Guidance on, and Acceptable Practices in, Compliance with Core Principles,).

**Estimated Number of Respondents**

1. SEF registration process: The Commission estimates that it will receive 1 application per year for SEF registration.
2. Ongoing Reporting, Recordkeeping, and Third-Party Disclosure for Registered SEFs: The Commission notes that there are currently 20 registered SEFs.

**Average Burden Hour Cost**

For the information collections unrelated to § 37.5, § 37.6(b), and § 37.1401(e), the Commission calculates the average burden hour cost based on a blended hourly rate of \$74 (rounded) that consists of ¼ Financial Specialist’s wage (\$64.11), ¼ Lawyer’s wage (\$126.97), ¼ Paralegal’s wage (\$47.74), and ¼ Accountant’s wage (\$56.03) provided by the Department of Labor’s Bureau of Labor Statistics’ May 2023 National Occupational Employment and Wage Estimates, United States, *available at* [https://www.bls.gov/oes/current/naics4\\_523000.htm](https://www.bls.gov/oes/current/naics4_523000.htm).

For the information collections related to the confirmation requirements under § 37.6(b) and requests for information relating to swap execution facility compliance under § 37.5, the salary estimate of \$90 is based upon May 2023 National Occupational Employment and Wage Estimates, United States, including the mean hourly wage of an employee under occupation code 23-1011, “Lawyers,” that is employed by the “Securities, Commodity Contracts, and Other Financial Investments and Related Activities Industry,” which is \$126.97; the mean hourly wage of an employee under occupation code 11-3031, “Financial Managers,” in the same industry, which is \$119.84; and the mean hourly wage of an employee under occupation code-13-1041, “Compliance Officers” in the same industry, which is \$45.47. The Commission also notes that it took the foregoing data and then increased its hourly wage estimate in recognition of the fact that some respondents may be large financial institutions whose employees’ salaries may exceed the mean wage.

For the information collection related to Commission notification of system malfunctions, cybersecurity incidents, and activations of Business Continuity-Disaster Recovery plans by SEFs under § 37.1401(e), the salary estimate of \$86 is based upon May 2023 National Occupational

Employment and Wage Estimates, United States, including the mean hourly wage of an employee under occupation code 11-3021, “Computer and Information Systems Managers,” that is employed by the “Securities, Commodity Contracts, and Other Financial Investments and Related Activities Industry,” which is \$ 86.88; and the mean hourly wage of an employee under occupation code-13-1041, “Compliance Officers” in the same industry, which is \$45.47. The Commission also notes that it took the foregoing data and then increased its hourly wage estimate in recognition of the fact that some respondents may be large financial institutions whose employees’ salaries may exceed the mean wage.

In addition, the Commission recognizes that some respondents may hire outside counsel with expertise in the various regulatory areas covered by the Part 37 regulations and that outside counsel may be able to leverage its expertise to substantially reduce the number of hours needed to fulfill a requested assignment. While the Commission is uncertain about the billing rates that these respondents may pay for outside counsel, the Commission believes that such counsel may bill at a rate of several hundred dollars per hour. Any determination to use outside counsel, however, is at the discretion of the respondent.

Burdens: Ongoing Reporting and Recordkeeping for Registered SEFs

## Recordkeeping Burden Hours and Costs

1. Regulation(s)	2. Estimated Number of Respondents	3. Estimated Number of Responses by Each Respondent	4. Estimated Average Number of Burden Hours per Response	5. Annual Number of Burden Hours per Respondent	6. Estimated Average Burden Hour Cost	7. Total Average Hour Burden Cost Per Respondent (5 x 6)	8. Total Annual Responses (2 x 3)	9. Total Annual Number of Burden Hours (2 x 5)	10. Total Annual Burden Hour Cost of All Responses (2 x 7)
Regulatory & Core Principle Compliance Part 37 (Subparts A-P) and related Appendices	20	250 (i.e., each trade day) <sup>3</sup>	1.148 <sup>4</sup>	287	\$74	\$21,238	5,000	5,740	\$424,760

## Reporting Burden Hours and Costs

1. Regulation(s)	2. Estimated Number of Respondents	3. Estimated Number of Responses by Each Respondent	4. Estimated Average Number of Burden Hours per Response	5. Annual Number of Burden Hours per Respondent (3 x 4)	6. Estimated Average Burden Hour Cost	7. Total Average Hour Burden Cost Per Respondent (5 x 6)	8. Total Annual Responses (2 x 3)	9. Total Annual Number of Burden Hours (2 x 5)	10. Total Annual Burden Hour Cost of All Responses (2 x 7)
§ 37.5 (Information Relating to SEF Compliance)	2	1	8	8	\$90	\$720	2	16	\$1,440

<sup>3</sup> The Commission reached an estimate of approximately 251 trading days by assuming a year of [365.25 days] x [5 weekdays] ÷ [7 days in a week] = 260.89 weekdays. The Commission then subtracted 11 public holidays (based on the Office of Personnel Management's calendar of public holidays): 260.89 days – 11 public holidays = 249.89 trading days, which the Commission rounds to 250. The Commission notes that not all SEFs may take all public holidays (e.g., Veteran's Day), but a SEF may also offer a non-Federal holiday (e.g., Good Friday).

<sup>4</sup> Based on the Commission's estimate of 287 total annual burden hours per SEF, the Commission divided 287 burden hours by 250 trade days to reach 1.148 burden hours per trade day per SEF.

**Attachment A**

**Collection 3038-0074**

§§37.1300 et al (Quarterly Financial Statements)	20	4	8.75 <sup>5</sup>	35	\$74	\$2,590	80	700	\$51,800
§ 37.1401(e) (Commission Notification of System Malfunctions, Cybersecurity Incidents, and Activations of Business Continuity-Disaster Recovery plans)	8	3	2	6	\$86	\$516	24	48	\$4,128
§ 37.1401(g) (Information relating to SEF provide to the Commission the following System Safeguards-related Books and Records)	20	1	8	8	\$74	\$592	20	160	\$11,840
§ 37.1501(d) (Annual Compliance Report)	20	1	52	52	\$74	\$3,848	20	1,040	\$76,960

<sup>5</sup> The Commission obtained this result by estimating that §§ 37.1300 et al (except 37.1306(a)(2)(i) and 37.1306(c)(2)(iv), which were added in 2021) imposes 20 total annual burden hours per SEF to provide the Commission with four quarterly financial reports. The Commission previously estimated that § 37.1306(a)(2)(i) (requiring quarterly financial statements to be GAAP-compliant) would impose 10 annual burden hours (The burden previously included an initial non-recurring burden that has been eliminated). Additionally, the Commission previously estimated that § 37.1306(c)(2)(iv) (requiring a SEF to calculate and explain its wind-down costs) would impose five annual burden hours each year (The burden previously included an initial non-recurring burden that has been eliminated.) Accordingly, the Commission estimates that §§ 37.1300 et al requires 35 annual burden hours per SEF (20 burden hours currently required + 10 additional annual burden hours for § 37.1306(a) + 5 additional annual burden hours for § 37.1306(c) = 35 annual burden hours). Per report, each SEF will incur 8.75 burden hours (35 total annual burden hours / 4 quarterly reports = 8.75 burden hours per report).

## Third-Party Disclosure Burden Hours and Costs

1. Regulation(s)	2. Estimated Number of Respondents	3. Estimated Number of Responses by Each Respondent	4. Estimated Average Number of Burden Hours per Response	5. Annual Number of Burden Hours per Respondent (3 x 4)	6. Estimated Average Burden Hour Cost	7. Total Average Hour Burden Cost Per Respondent (5 x 6)	8. Total Annual Responses (2 x 3)	9. Total Annual Number of Burden Hours (2 x 5)	10. Total Annual Burden Hour Cost of All Responses (2 x 7)
§ 37.6(b) Confirmation Requirement)	20	391,200 <sup>6</sup>	3.45 secs	375 (rounded)	\$90	\$33,750	7,824,000 <sup>7</sup> (rounded)	7,500	\$675,000 <sup>8</sup>

<sup>6</sup> 7,824,000 total annual responses / 20 SEF respondents = 391,200 annual responses per SEF (rounded). See footnote 6 for the explanation regarding the calculation of 7,824,000 total annual responses.

<sup>7</sup> Based on industry data, the Commission estimates that from January 1, 2023 to December 31, 2023 approximately 3,912,000 (rounded amount) swap transactions were executed across all SEFs. Because each swap transaction requires a SEF to provide 2 responses (*i.e.*, a SEF must provide a confirmation to both swap counterparties), the Commission estimates that in the aggregate SEFs will provide approximately 7,824,000 swap confirmations (3,912,000 swaps × 2 counterparties = 7,824,000 swap confirmations).

<sup>8</sup> The Commission estimates this based on 20 respondent SEFs × \$33,750 = \$675,000.

Burdens: SEF Registration Process

Reporting Burden Hours and Costs<sup>9</sup>

1. Regulation(s)	2. Estimated Number of Respondents	3. Estimated Number of Responses by Each Respondent	4. Estimated Average Number of Burden Hours per Response	5. Annual Number of Burden Hours per Respondent (3 x 4)	6. Estimated Average Burden Hour Cost	7. Total Average Hour Burden Cost Per Respondent (5 x 6)	8. Total Annual Responses (2 x 3)	9. Total Annual Number of Burden Hours (2 x 5)	10. Total Annual Burden Hour Cost of All Responses (2 x 7)
§ 37.3 and Form SEF and Technology Questionnaire (SEF Registration)	1 <sup>10</sup>	1 <sup>11</sup>	295	295	\$74	\$21,830	1	295	\$21,830

**Total Estimated Burden for Information Collection 3038-0074**

Estimated number of respondents: 20.

Estimated total annual number of responses: 7,829,147.

Estimated total annual burden hours: 15,499.

Estimated total annual burden cost: \$1,267,758.

<sup>9</sup> The Commission has not identified any recordkeeping or third-party disclosure information collections related to SEF registration.

<sup>10</sup> Based on the number of applicants that have applied for SEF registration since 2017 (4), the Commission expects to receive one application per year for SEF registration as part of the normal course of business.

<sup>11</sup> For this purpose, the Commission considers the entire SEF application process to constitute a single information collection.