

SUPPORTING STATEMENT FOR INFORMATION COLLECTION

OMB CONTROL NUMBER 3038-0070

Real-Time Public Reporting

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.

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) went into effect.¹ Title VII of the Dodd-Frank Act amended the Commodity Exchange Act (“CEA”) to create a regulatory framework for swaps. Section 2(a)(13) of the CEA directs the Commission to establish certain standards for the real-time public reporting of swap transaction and pricing data. The Commission established these regulations in Part 43 of the Commission’s regulations. The regulations govern topics including reporting, public dissemination, and timestamping requirements for swap execution facilities (“SEFs”), designated contract markets (“DCMs”), swap data repositories (“SDRs”), derivatives clearing organizations (“DCOs”), swap dealers (“SDs”), major swap participants (“MSPs”), and non-SD/MSP/DCO counterparties.

On November 25, 2020, the Commission published final rules amending regulations in Parts 43, 45, and 49 concerning real-time reporting and public dissemination (“2020 RTR Final Rule”)², swap data recordkeeping and reporting requirements (“Swap Data Reporting Rule”)³, and certain swap data repository and data reporting requirements (“SDR Reporting Rule”)⁴, respectively. The amendments to Part 43 revised the method and timing of real-time reporting and public dissemination, generally and for specific types of swaps; the delay and anonymization of the public dissemination of block trades and large notional trades; the standardization and validation of real-time reporting fields; the delegation of specific authority to Commission staff; and the clarification of specific real-time reporting questions and common issues. The amendments to Part 45 streamlined reporting requirements and clarified certain provisions. The Commission also amended Part 45’s requirements for SDRs within the SDR Reporting Rule to establish policies and procedures to confirm the accuracy of swap data with both counterparties to a swap and require reporting counterparties to verify the accuracy of swap data pursuant to those SDR procedures.⁵ Those amendments also updated the CFTC’s requirements related to corrections for data errors.⁶

Among other items, regulations 43.3(e) and 45.14 requires SEFs, DCMs, and reporting counterparties to notify the director of the Commission’s Division of Market Oversight when data errors or omissions in Part 43 and 45 cannot be corrected within seven business days of

¹ Dodd-Frank Act, Pub L. No. 111-203, 124 Stat. 1376 (2010)

² Real-Time Public Reporting Requirements, 85 FR 75422 (November 25, 2020).

³ *Swap Data Recordkeeping and Reporting Requirements*, 85 FR 75503 (November 25, 2020).

⁴ *Certain Swap Data Repository and Data Reporting Requirements*, 85 Fed. Reg. 75601 (Nov. 25, 2020).

⁵ SDR Reporting Rule at 75626.

⁶ SDR Reporting Rule at 75610.

discovery. In such case, regulations 45.14(b) would require the SEF, DCM, or reporting counterparty to notify the director of the Division of Market Oversight within twelve hours of determining it will be unable to timely correct the error, and to provide an “initial assessment of the scope of the error[s]” and an initial remediation plan.⁷ Similarly, regulation 43.3(e) requires notification when data errors or omissions in Part 43 data cannot be corrected within seven business days of discovery.⁸

On June 10, 2022, the Commission staff issued a Staff Advisory on Reporting of Errors and Omissions in Previously Reported Data (“Advisory”). In order to facilitate SEFs, DCMs, and reporting counterparties’ submission of error correction notifications pursuant to regulations 45.14 and 43.3(e), the Division of Data (“DOD”) published a “Swap Data Error Correction Notification Form” (“Form”) on the Commission’s website, along with instructions for submitting that Form electronically by email. That Form contains fourteen questions that solicit information sufficient to provide an “initial assessment of the scope of the error” and provides a SEF, DCM, or reporting counterparty an opportunity to present an initial remediation plan.

These Information Collection requirements⁹ impact SDRs, SEFs, DCMs, and reporting counterparties that report swap data for the Commission to perform its regulatory duties of risk monitoring and ensuring compliance with its rules, among other things. As part of this renewal, the Commission is updating burden estimates pertaining to information collections for the following regulations:

- Regulation 43.3 requires reporting counterparties, SEFs, and DCMs to send swap transaction and pricing data as described in appendix A of part 43 to SDRs as soon as technologically practicable after execution.
- Regulation 43.4 requires SDRs to publicly disseminate the swap transaction and pricing data described in appendix A of part 43.
- Regulation 43.6 establishes the appropriate minimum block size for publicly reportable swap transactions based on the swap categories set forth within the 43.6 subparagraphs.
- Regulation 43.3(e) requires SEFs, DCMs, and reporting counterparties to notify the director of the Commission’s Division of Market Oversight when data errors or omissions in Part 43 cannot be corrected within seven business days of discovery. In such case, 43.3(e) requires the SEF, DCM, or reporting counterparty to notify the director of the Division of Market Oversight within twelve hours of determining it will be unable to

⁷ 17 C.F.R. § 45.14(a)(1)(ii).

⁸ 17 C.F.R. § 43.3(e)(1)(ii).

⁹ Since the publication of the original collection in 2012, the Commission has finalized two rules that affected this Information Collection, and as a result, are included under this Information Collection. In 2013, the Commission published amendments related to the block sizes and large notional off-facility swap trades. *See* Final Rule, Procedures to Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades (May 31, 2013). In 2020, the Commission published amendments to Part 43 to streamline real-time reporting requirements and clarified certain provisions. *See* Final Rule, Real-Time Public Reporting Requirements, 85 FR 75422 (Nov. 25, 2020).

timely correct the error, and to provide an “initial assessment of the scope of the error[s]” and an initial remediation plan.¹⁰

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

The Commission’s regulations in part 43 require SEFs, DCMs, and reporting counterparties to report swap transaction and pricing data to SDRs and require SDRs to disseminate the swap transaction and pricing data to the public. The Commission may use the swap transaction and pricing data in connection with fulfilling any of its regulatory duties or for other purposes. This publicly-reported data is also available to all other regulators and to the public. The swap transaction and pricing data is made public in order to increase the transparency of the swaps market for regulators and market participants. Additionally, the Commission uses the information required by CFTC regulation 43.3(e) to ensure data quality, identify errors in data, and ensure compliance with Commission regulations.

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.

Information Collections 3038-0070 involves the use of electronic collection protocols. All required data submissions to the Commission may be submitted in electronic format.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information collected pursuant to part 43 of the Commission’s regulations is not already collected by the Commission or other U.S. regulators for any other purpose and is not publicly available through another source. The swap data is unique and no other similar transaction-level information is available. There are no other existing regulations that could be modified to serve a similar purpose in any practical way.

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 Commission has previously established that DCMs, DCOs, MSPs, SDs, SDRs, and SEFs are not small entities.¹¹ In addition, based on its review of publicly available data, the Commission believes that the overwhelming majority of non-SD/MSP/DCO reporting counterparties affected by this rulemaking are eligible contract participants (“ECPs”) that the Commission has previously determined are not small entities or do not otherwise meet the

¹⁰ 17 C.F.R. § 43.3(e)(1)(ii)

¹¹ *Policy Statement and Establishment of “Small Entities” for purposes of the Regulatory Flexibility Act*, 47 FR 18618 (Apr. 30, 1982).

definition of “small entity.” Accordingly, the Commission does not believe that this collection of information will affect a substantial number of 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.

The public reporting requirements under part 43 make swap transaction and pricing data available to the public in order to enhance price discovery and market transparency. Without the required frequency of reporting set forth in the Commission’s regulations, the general public would not receive swap transaction and pricing data in a timely manner that would allow for meaningful price discovery, which would frustrate the purpose of the statute.

Concerning 43.3(e), if the information required under this collection of information were not collected or were collected less frequently, enforcement of the CEA and the Commission’s regulations would be hindered. The Commission would have less insight into the cause and scope of swap data errors.

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;

Staff note that in adopting the 2020 Final Rules the Commission reviewed the swap transaction and pricing data (“STAPD”) data fields in appendix A to part 43 and the swap data elements in appendix 1 to part 45 and determined that the STAPD data fields in appendix A to part 43 would be a subset of the part 45 swap data elements in appendix 1 to part 45.¹² CFTC regulation 45 requires reporting directly to the Commission only in the exceptional case of a swap in an asset class for which no SDR accepts swap data. Regulation 43.3(e) does not specifically require the collection of information more than quarterly because the collection is event-specific.

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

This does not apply to Part 43 generally.

With regards to 43.3(e), this regulation requires information to be provided fewer than 30 days after the triggering event for the collection. This requirement is necessary to ensure that the Commission is aware of potentially large amounts of incorrect or omitted data in order to adjust its regulatory initiatives to compensate and to more efficiently work with SEFs, DCMs, SDRs, and reporting counterparties to have the data corrected as soon as possible.

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

¹² 2020 RTR Final Rule, 85 FR at 75457.

This does not apply.

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

The proposed revision of Information Collection 3038-0070 does not modify any recordkeeping requirements associated with this collections.

- 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;

Not applicable, the proposed collection does not involve the use of any statistical data classification.

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

Not applicable, the proposed collection does not involve the use of any 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

Not applicable, the proposed collection does not include any pledges of confidentiality that are not supported by authority established in statute or regulation.

- 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.

All current and proposed requirements to submit proprietary or other confidential information are subject to the Commission's existing statutory, regulatory, and procedural requirements to protect the confidentiality of such information. This includes the requirements of sections 8(a) and 21(c)(6) of the Act as well as in regulations 43.4, 49.16, 49.17, and 49.18, and parts 145 and 147 of the Commission's regulations. Additionally, in regards to 43.3(e), the information required to be collected or reported is generally not made public, though it may be shared with other regulators pursuant to Part 49 of the Commission's 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 affirmatively sought comments from the public concerning the renewal of existing collections of information required by CFTC regulation 43. A copy of the 60-Day Notice soliciting public comments appeared in the Federal Register at 90 FR 19685 (May 9, 2025). The Commission received no relevant comments.

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.

Not applicable.

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

Not applicable. This Information Collection does not involve the provision of any payment or gift to respondents.

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

All current and proposed requirements to submit proprietary or other confidential information are subject to the Commission's existing statutory, regulatory, and procedural requirements to protect the confidentiality of such information. This includes the requirements of sections 8(a) and 21(c)(6) of the Act as well as in regulations 43.4, 49.16, 49.17, and 49.18, and Parts 145 and 147 of the Commission's 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.

Not applicable, the collection does not involve any questions of a sensitive nature, as the term is used in this question.

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.

Please see attachment A for the estimated hour burden for the collections of information discussing in this supporting statement.

Regulation 43.3 requires reporting counterparties, SEFs, and DCMs to send swap transaction and pricing data as described in appendix A of part 43 to SDRs as soon as technologically practicable after execution. Regulation 43.4 requires SDRs to publicly disseminate the swap transaction and pricing data described in appendix A of part 43. Under 43.6, the Commission established the minimum block size for publicly reportable swap transactions based on the swap categories. Regulation 43.3(e) requires SEFs, DCMs, and reporting counterparties to notify the director of the Commission's Division of Market Oversight when data errors or omissions in Part 43 cannot be corrected within seven business days of discovery. In such case, regulation 43.3(e) would require the SEF, DCM, or reporting counterparty to notify the director of the Division of Market Oversight within twelve hours of determining it will be unable to timely correct the error, and to provide an "initial assessment of the scope of the error[s]" and an initial remediation plan.

Please note, collections required by CFTC regulation 43.3(e) are event-specific. In previously estimating the hour burden of the information collection, the Commission considered the burden associated with notifying the Director of the Division of Market Oversight of swap data errors, providing an initial assessment of those errors, and providing an initial remediation plan if one exists.¹³

Regulation 43.3:

Respondents: 1,742 SEFs, DCMs, Reporting Counterparties, and SDRs

¹³ Final Rule, Certain Swap Data Repository and Data Reporting Requirements, 85 Fed. Reg. 75601, 75633 (Nov. 25, 2020).

Number of Responses Per Respondent: 2,998
Burden Hours Per Response: .14
Annual Burden Hours Per Respondent: 420 ($2,998 \times .14 \text{ hours} = 419.72$ – rounding off to 420)
Total Respondent Burden Hours Under Regulation 43.3: 731,640 hours ($420 \times 1,742$)

Regulation 43.3 (e):

Respondents: 86 SEFs, DCMs, and Reporting Counterparties
Number of responses per respondent: 23
Burden Hour Per Response: 6
Annual Burden Hours Per Respondent: 138 (23×6)
Total Respondent Burden Hours Under Regulation 43.3 (e): 11,868 hours (138×86)

Regulation 43.4:

Respondents: 4 SDRs
Number of Responses Per Respondent: 1,499,900
Burden Hour Per Response: .009
Annual Burden Hours Per Respondent: 13,499 ($1,499,900 \times .009$)
Total Respondent Burden Hours Under Regulation 43.4: 53,996 hours ($13,499 \times 4$)

Regulation 43.6:

Respondents: 1,688 SDRs, SEFs, DCMs, and Financial Entity Reporting Counterparties
Number of Responses Per Respondent: 200
Burden Hour Per Response: .0167
Annual Burden Hours Per Respondent: 3.34 ($200 \times .0167$)
Total Respondent Burden Hours Under Regulation 43.6: 5,638 hours ($3.34 \times 1,688 = 5,637.92$ (rounded to 5,638))

Aggregation:

Total Annual Respondent Burden Hours: $731,640 + 11,868 + 53,996 + 5,638 = 803,142$ hours.

Since there are 1,742 total respondents, the average burden hours per respondent ($803,142 / 1,742 = 461$).

In calculating the associated labor cost estimates, the Commission estimated the appropriate wage rate based on salary information for the securities industry compiled by the Department of Labor's Bureau of Labor Statistics ("BLS"). Commission staff arrived at an hourly rate of \$102.62 using figures from a weighted average of salaries and bonuses across different professions contained in the most recent BLS Occupational Employment and Wages

Report (May 2024 and May 2023)¹⁴ multiplied by 1.3 to account for overhead and other benefits.¹⁵ The Commission estimated appropriate wage rate is a weighted national average of mean hourly wages for the following occupations (and their relative weight): “computer programmer – industry: securities, commodity contracts, and other financial investment and related activities” (50% weight); “compliance officer – industry: securities, commodity contracts, and other financial investment and related activities” (25%); and “lawyer – legal services” (25%). Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collection of information.

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.

The Commission estimates that the information collections associated with the Commission’s rules associated with Real-Time Public Reporting do not involve any capital or

¹⁴ Staff note that the salary estimates for Computer Programmers (15-1251) have not been released in the current May 2024 BLS. As such, staff use the estimates for Computer Programmers from the May 2023 BLS, but salary estimates for the other professions are drawn from the May 2024 BLS.

¹⁵ BLS Occupational Employment and Wages Report - Industry: Securities, Commodity Contracts, and Other Financial Investments and Related Activities Period: May 2024, <https://data.bls.gov/oes/#/indOcc/Multiple%20occupations%20for%20one%20industry> (last visited April 7, 2025).

start-up capital or operations or maintenance costs as the Commission anticipates that these costs have already been incurred by respondents.

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

The Commission does not anticipate that the renewal will require additional staff time or technology resources beyond what is already dedicated to this collection, as discussed in previous filings related to Information Collection 3038-0070.

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 consolidating the two underlying Information Collections into a single collection since they are closely related. Accordingly, the burden hours from the Second IC titled “Method and timing for real-time public reporting (17 CFR 43.3)” have been incorporated into the First IC titled “Real-Time Public Reporting.”

The Commission previously estimated the total respondent burden of the information collection as 782,283 hours. There were 1,732 respondents in 2022, but the total number of respondents is now 1,742. Accordingly, the total respondent burden estimate for the collection has increased to 803,142 hours, reflecting an aggregate increase of 20,859 burden hours.

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.

Not applicable, the results of this collection of information are not planned to be published for statistical use.

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.

Not applicable, the Commission is not seeking such approval.

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

Not applicable, there are no exceptions.

Attachment A: Estimated Burden Cost – Information Collection (3038-0070)¹⁶

Reporting Burden

1. Regulation(s)	2. Estimated Number of Respondents	3. Estimated Number of Reports by Each Respondent	4. Estimated Average Number of Burden Hours per Response	5. Annual Number of Burden Hours per Respondent (3 x 4)	6. Estimate of Average Burden Hour Cost ¹⁷	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)
43.3	1,742 SEF/DCM/ Reporting counterparty	2,998	.14	420	\$102.62	\$43,070.	5,222,516	731,640	\$75,027,940
43.3(e)	86 SEF/DCM/ Reporting counterparty ¹⁸	23	6	138	\$102.62	\$14,162	1,978	11,868	\$1,217,932
43.4	4 SDRs	1,499,900	.009	13,499	\$102.62	\$1,385,267	5,999,600	53,996	\$5,541,068
43.6	1,688 SDRs, SEFs, DCMs, and Financial Entity Reporting Counterparties	200	.0167	3.34	\$102.62	\$308	337,600	5, 638	\$519,904
Total	1,742¹⁹						11,561,694	803,142	\$82,306,844

¹⁶ Numbers in the table are subject to rounding.

¹⁷ As described above in the answer to question 12, the Commission calculated the average wage rate as \$102.62.

¹⁸ This estimate represents the average number of firms that submit Forms associated with this regulation.

¹⁹ This estimate represents the total number of respondents that span across various regulatory requirements under Part 43. To avoid duplication, staff did not combine the number of respondents from each regulation in this Information Collection.