

SUPPORTING STATEMENT FOR INFORMATION COLLECTIONS

OMB CONTROL NUMBER 3038-0013

Position Limits

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.**

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) went into effect. Section 737 of the Dodd-Frank Act amended section 4a of the Commodity Exchange Act (“CEA” or “Act”) and specifically directed the Commodity Futures Trading Commission (“Commission”) to establish limits on positions, as the Commission determines to be necessary, for exchange traded futures, including any option contract thereon, and swaps that are economically equivalent to those contracts for physical commodities other than excluded commodities, as appropriate.¹ CEA section 4a directs the Commission to establish limits on speculative positions, as the Commission determines to be necessary, to prevent the harms caused by excessive speculation.

On January 30, 2020, the Commission approved a proposed rulemaking on speculative position limits to conform to the Dodd-Frank Act amendments to CEA section 4a (“2020 Proposal”).² On October 15, 2020, the Commission voted 3-2 to adopt the 2020 Proposal with certain amendments (“Final Rule”).³

¹ See 7 U.S.C. 6a(a)(2) and 7 U.S.C. 6a(a)(5).

² Proposed Rule, *Position Limits for Derivatives*, RIN 3038-AD99, issued by the Commission on January 31, 2020 (“2020 Proposal”).

³ The Final Rule resulted in modified collections of information currently approved by OMB in OMB control numbers: (i) 3038-0009, (ii) 3038-0013, and (iii) 3038-0093. The Commission in the Final Rule reorganized the information found in the OMB control numbers then-associated with its position limits regulations. In particular, the Commission moved from OMB control number 3038-0009 to OMB control number 3038-0013 the burdens related to collections of information under part 19 (Reports by Persons Holding Bona Fide Hedge Positions and By Merchants and Dealers in Cotton) related to position limit requirements.

Additionally, the Final Rule renamed the modified collection under OMB control number 3038-0013 as “Position Limits.” This renaming change was non-substantive and allowed for all collections of information related to the federal position limits requirements, including exemptions from speculative position limits and the collections of information being moved from OMB control number 3038-0009 (*i.e.*, the related large trader reporting), to be housed in one collection. The remaining collections of information under OMB control number 3038-0009 cover reports by various entities under parts 15, 17, and 21 of the Commission’s regulations, while OMB control number 3038-0013 holds collections of information arising from parts 19 and 150. Other than moving the existing collections of information under part 19 from OMB control number 3038-0009 to OMB control number 3038-0013, the Final Rule did not make any other substantive changes to OMB control number 3038-0009 for the purposes of the Paperwork Reduction Act (“PRA”). OMB control number 3038-0009 generally covers Commission regulations in parts 15 through 21. However, it does not cover §§ 16.02, 17.01, 18.04, or 18.05, which are under OMB control number 3038-0103. See 78 FR 69178 at 69200 (Nov. 18, 2013) (transferring §§ 16.02, 17.01, 18.04, and 18.05 to OMB Control Number 3038-0103)).

OMB control number 3038-0013 also includes information collections related to the aggregation of positions for purposes of calculating position limits and the administration of exemptions to position aggregation under Commission Regulation 150.4. On December 16, 2016, the Commission published in the Federal Register a final rulemaking entitled Aggregation of Positions, which amended Commission Regulation 150.4 (the “Aggregation Rule”). The Aggregation Rule determines which accounts and positions a person must aggregate for the purpose of determining compliance with the applicable position limit levels set forth in Commission Regulation 150.2, and includes a process by which a person may file with the Commission a notice seeking an exemption from such aggregation requirements (i.e., a process by which a person may “disaggregate” its positions from those of another entity with which the person has certain ownership or control relationships). The Aggregation Rule became effective on February 14, 2017.

The collections of information covered by OMB control number 3038-0013 are necessary for the Commission to determine whether to recognize a trader’s position as a bona fide hedge exempted from position limit requirements. They also ensure that exchange-set limits comply with Commission regulations, including that such limits are no higher than the applicable federal level; that the exchanges establish minimum standards needed to administer the exchange’s position limits framework; and that the Commission is able to oversee an exchange’s exemptions process to ensure it does not undermine the federal position limits framework. In addition, they also help ensure that any person claiming any exemption can demonstrate compliance with the applicable requirements. Further, the reporting and recordkeeping requirements addressing aggregation of positions would be used by the Commission generally and by Commission surveillance staff, in particular, to verify the aggregation of positions across multiple entities, and for general surveillance purposes. This additional data would allow the Commission to understand how market participants are applying exemptions from aggregation, ensure the proper application of such exemptions, and provide the Commission with information to adjust exemptions in the future.

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

Generally, the Commission currently uses the information received from OMB control number 3038-0013, which is submitted by exchanges (Designated Contract Markets (“DCMs”) and Swap Execution Facilities (“SEFs”)) and market participants, to administer its speculative position limit regime and to ensure the validity of exemptions granted from that regime. The information is also critical in the operation of the Commission’s activities to monitor and surveil its markets.

The reporting and recordkeeping requirements included in the Final Rule are used by the Commission to verify exemptions from position limit requirements on a universe of 25 physically-settled futures contracts (the “Core Referenced Futures Contracts” or “CRFCs”) and their linked cash-settled futures, options on futures, and “economically equivalent” swaps (collectively, “Referenced Contracts”). Part 150 establishes an amended process for traders to obtain a bona fide hedge exemption or recognition, which includes: (i) a new bona fide hedging definition in § 150.1, (ii) a new streamlined process involving the exchanges in § 150.9 for recognizing non-enumerated bona fide hedging exemptions for federal limit requirements, and (iii) an amended process in §

150.3 to apply directly to the Commission for certain spread exemptions or for recognition of non-enumerated bona fide hedging positions. Regulation 150.3 also includes new exemption types not explicitly listed in existing § 150.3.

The Commission believes the collections of information in part 150 are necessary for the exchange and the Commission to process requests for recognition of bona fide hedges for purposes of both exchange-set position limits and federal position limits. The information will be used by the exchange and the Commission to determine whether the facts and circumstances demonstrate it is appropriate to recognize a position as a non-enumerated bona fide hedging transaction or position. Further, the collections are necessary for the Commission to determine whether exemptions from position aggregation requirements have been properly applied. Overall, the data will continue to support the Commission's ability to monitor and surveil the markets, particularly in contract markets that will be newly subject to federal position limit requirements.

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

The Commission is committed to utilizing technology in order to reduce reporting burdens for respondents. Accordingly, the Commission has provided for the electronic transmission of the required submissions for OMB control number 3038-0013. The Commission anticipates that 100% of the collection of information will be submitted electronically.

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

The Final Rule includes several measures that are meant to reduce duplication. For example, the Commission eliminated the requirement on market participants to submit the Form 204 and Form 304 statements of commodity cash positions to the Commission as such information is already required to be provided as part of the market participant's exemption application to an exchange.

In addition, the Commission established a streamlined process for addressing requests for non-enumerated bona fide hedging positions. The new process leverages existing exchange processes as well as exchange expertise and resources.

Under the Final Rule, market participants can provide one application to an exchange to request a non-enumerated bona fide hedge, and receive approval of such request from the exchange for the purpose of exchange-set limits and from the Commission for the purpose of federal limits (the Commission will receive the application directly from the exchange), as opposed to the market participant submitting separate, duplicative applications to the Commission and exchange. Similarly, with respect to enumerated bona fide hedge exemptions, market participants need only submit an application to an exchange for the purpose of exchange-set limits rather than separately submit an application to the Commission for purposes of federal-set limits.

5. If the collection of information involves small business or other small entities, describe the methods used to minimize burden.

The information collections do not involve small entities. The information collection requirements apply mainly to registered entities such as exchanges (*i.e.*, DCMs and SEFs, Futures Commission Merchants (“FCMs”), swap dealers, clearing members, foreign brokers, and large traders. The Commission has determined that registered DCMs, SEFs, FCMs, swap dealers, major swap participants, eligible contract participants, clearing members, foreign brokers, and large traders are not small entities for purposes of the Regulatory Flexibility Act.

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 Commission would not be able to effectively carry out the congressional directive to establish position limits, as the Commission deems necessary, under section 4a of the CEA if the collections were conducted less frequently than as adopted. The Final Rule sets forth a streamlined process in which a trader can apply indirectly to the Commission through an exchange to request a non-enumerated bona fide hedging recognition from federal position limits. Conducting the collections less frequently will hinder the Commission’s ability to consider the traders’ applications when requesting non-enumerated bona fide hedge exemptions from federal or exchange-set limits and allows the Commission to assess the validity of exemptions. In addition, conducting the recordkeeping obligations less frequently will not aid in the Commission’s ability to properly enforce federal position limits as the Final Rule’s requirements ensure that supporting documentation is available upon request to Commission staff.

Further, in order to properly set federal spot-month position limits, the Commission needs DCMs to submit initial estimates of deliverable supply on the relevant underlying commodities.

The Commission also would not be able to effectively monitor whether market participants are properly relying upon exemptions from aggregation, and would not be able to determine if modifications to the existing aggregation rules are needed.

7. Explain any special circumstances that require the collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**

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

Market participants are only required to file a notice with respect to aggregation when they wish to rely upon certain exemptions.

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

In this collection, § 150.9 provides for instances where respondents may be required to prepare a written response to a collection of information within fewer than 30 days after receipt. These provisions allow the Commission to prevent potential abuse or manipulation of commodity derivatives swiftly, minimize the potential impact to national and international commerce and consumers, and quickly provide regulatory certainty to market participants.

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

Not applicable.

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

Section 5(d)(18) of the CEA requires DCMs to maintain records of all activities related to the business of the market in a form and manner acceptable to the Commission for a period of five years. 7 U.S.C. 7(d)(18). In addition, section 4g of the CEA imposes reporting and recordkeeping obligations on registered entities and registrants (*e.g.*, whether an FCM, introducing broker, floor broker, or floor trader). The amended recordkeeping requirements must be kept in accordance with § 1.31, which requires persons to maintain records for at least five years.

The record-keeping duties imposed with respect to aggregation are in accordance with regulation 150.4(c)(3). This provision provides, in relevant part, that “any person claiming an aggregation exemption under this section shall provide to the Commission such information concerning the person’s claim for exemption.”

- **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 Final Rule does not involve statistical surveys.

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

Not applicable. The Final Rule does not involve statistical data classifications.

- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **The 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.**

The Final Rule and Aggregation Rule do not directly involve any specific pledge of confidentiality regarding the collection of data. The Final Rule requires the submission of data involving confidential information or proprietary trade secrets. The Commission protects sensitive information according to the Freedom of Information Act and 17 CFR part 145, “Commission Records and Information.” In addition, the Commission fully complies with section 8(a) of the CEA, which strictly prohibits the Commission, unless specifically authorized by the CEA, from making public “data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.”

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

The Commission published its 60-Day Notice in the Federal Register on February 2, 2026 (91 Fed. Reg. 4507). The Commission received no relevant comments.

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

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 protects sensitive information according to the Freedom of Information Act and 17 CFR part 145, “Commission Records and Information.” In addition, the Commission fully complies with section 8(a) of the CEA, which strictly prohibits the Commission, unless specifically authorized by the CEA, from making public “data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.”

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

Not applicable.

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.**
- **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.**

Attachment A provides a specific breakdown of the estimated burden for the collections of information for the Final Rule and Aggregation Rule, including the number of respondents, frequency of response, and annual hour burden cost.⁴

The Commission estimates that the annualized burden associated with complying with Part 150 and Regulation 19.02 totals 11,748 annual burden hours along with approximately \$1,200,062 in associated labor costs across approximately 776 respondents. These cost estimates are based on Commission staff's estimates and respondent feedback since the Final Rule's issuance.

Below is a descriptive overview of the burdens.⁵ Generally, the Final Rule and Aggregation Rule results in the following reporting and recordkeeping labor burdens:

⁴ The Commission has updated the mean hourly wage rate for Lawyers from \$102 to \$127 from its estimate submitted in connection with the 2020 Final Rule to reflect the increase for this occupation as reported by the U.S. Bureau of Labor Statistics ("BLS") in May 2023. See May 2023 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 523000 - Securities, Commodity Contracts, and Other Financial Investments and Related Activities, https://www.bls.gov/oes/2023/may/naics3_523000.htm. As a result, there is an increase with respect to the estimated burden for the collections of information in Attachment A, and as described below.

⁵ \$94 is an average of the cost of General and Operations Managers (\$109), Lawyers (\$127), and Compliance Officers (\$45), reflecting the increase for the average of these occupations as reported by the U.S. Bureau of Labor Statistics ("BLS") in May 2023. See May 2023 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 523000 - Securities, Commodity Contracts, and Other Financial Investments and Related Activities, https://www.bls.gov/oes/2023/may/naics3_523000.htm. The \$127 cost for Lawyers updates the 2020 Final Rule's cost of \$97. Where the average of the three positions is used, \$94 updates the 2020 Final Rule's cost of \$77. See FNs 20 & 21 under Attachment A for a more in-depth explanation of the bases for these figures.

i. Non-Enumerated Bona Fide Hedging Exemption Applications

Regulations 150.3 and 150.9 establish an amended process for obtaining a bona fide hedge exemption or recognition. However, the Commission estimates that no traders will request recognition of a non-enumerated bona fide hedge since the Commission has determined that the most common bona fide hedges are included in the list of “enumerated” bona fide hedges (however, to the extent traders would avail themselves of a non-enumerated bona fide hedge, those traders will likely prefer the streamlined process in § 150.9 (discussed further below) rather than apply directly to the Commission under § 150.3(b)).

Similarly, the Commission estimates that no traders will submit a request for a spread exemption since the Commission has determined that the most common spread exemptions are included in the adopted “spread transaction” definition and therefore will be self-effectuating and will not need approval for purposes of federal position limits.

In both cases, the Commission bases its estimate on the fact that no traders have submitted a request under Regulation 150.3(b) for either a non-enumerated bona fide hedge or spread exemption. The Commission does not anticipate this changing going forward.

In the event a trader submits such request under § 150.3(b), the Commission estimates that it would take 20 hours to complete and file each report. Assuming an estimated average burden hour cost of \$127, the total annual burden hour cost for the one respondent is approximately \$2,540. However, the Commission is providing the hypothetical hourly cost burden estimate for illustration purposes only and reiterates that the Commission estimates 0 burden hours or information collections under § 150.3(b) based on its experience since the issuance of the Final Rule.

The Commission estimates, based on its observations since the Commission issued the Final Rule, that under § 150.5(a) that 300 traders will submit applications to claim spread exemptions and bona fide hedge recognitions from exchange-set position limits on commodity derivatives contracts subject to federal limits set forth in § 150.2. The Commission estimates that each trader on average will submit 3 applications to an exchange each year for a total of 900 applications for all respondents. The Commission further estimates that it will take 2 hours to complete and file each application for a total of 6 annual burden hours for each trader and 1,800 aggregate burden hours for all traders. Assuming an estimated average burden hour cost of \$127, the total annual burden hour cost for all 300 respondents is approximately \$228,600.

ii. Exchange-Set Limits

Regulation § 150.5(a)(4) requires each exchange to provide a monthly report showing the disposition of any exemption application, including the recognition of any position as a bona fide hedge, the exemption of any spread transaction, the renewal, revocation, or modification of a previously granted recognition or exemption, or the rejection of any application.⁶ The Commission

⁶ Additionally, each report should include the following details: (A) The date of disposition; (B) The effective date of the disposition; (C) The expiration date of any recognition or exemption; (D) Any unique identifier(s) the DCM or SEF may assign to track the application, or the specific type of recognition or exemption; (E) If the application is for an enumerated bona fide hedging transaction or position, the name of the enumerated bona fide hedging transaction or position listed in Appendix A to this part; (F) If the application is for a spread transaction listed in the

estimates under § 150.5(a)(4) that 4 exchanges will provide monthly reports for a total of 48 monthly reports for all exchanges.⁷ The Commission further estimates that it will take approximately 5 hours to complete and file each monthly report for a total of 60 annual burden hours for each exchange and 240 annual burden hours for all exchanges.⁸ Assuming an estimated average burden hour cost of \$127, the total annual burden hour cost for all 4 respondents is approximately \$30,480.

Under § 150.5(b)(3), where multiple exchanges list contracts that are substantially the same, including physically-settled contracts that have the same underlying commodity and delivery location, or cash-settled contracts that are directly or indirectly linked to a physically-settled contract, the exchange must either adopt “comparable” limits for such contracts, or demonstrate to the Commission how the non-comparable levels comply with the standards set forth in § 150.5(b)(1) and (2). Based on its observations since the Commission issued the Final Rule, the Commission estimates that under § 150.5(b)(3), one exchange will make a submission to demonstrate to the Commission how the non-comparable levels comply with the standards set forth in § 150.5(b)(1) and (2). The Commission estimates that one exchange on average will make one submission each year for a total of one submission for all exchanges. The Commission further estimates that it will take 10 hours to complete and file each submission for a total of 10 annual burden hours for the exchange. Assuming an estimated average burden hour cost of \$127, the total annual burden hour cost for the single respondent exchange is approximately \$1,270.⁹

Regulation 150.5(b)(4) permits exchanges to grant exemptions from any exchange limit established for physical commodity contracts not subject to federal limits. To grant such exemptions, exchanges must require traders to file an application to show whether the requested exemption from exchange-set limits would be in accord with sound commercial practices in the relevant commodity derivative market and/or that may be established and liquidated in an orderly fashion in that market. The Commission estimates that 170 traders will submit two applications each year and that each application will take approximately two hours to complete, for an aggregate total of 680 burden hours per year for all traders (170 traders × 2 applications × 2 hours per application = 680 total hours). Assuming an estimated average burden hour cost of \$127, the total annual burden hour cost for all 170 respondents is approximately \$86,360.

iii. DCM Submission of Estimates of Deliverable Supply

spread transaction definition in § 150.1, the name of the spread transaction as it is listed in § 150.1; (G) The identity of the applicant; (H) The listed commodity derivative contract or position(s) to which the application pertains; (I) The underlying cash commodity; (J) The maximum size of the commodity derivative position that is recognized by the DCM or SEF as a bona fide hedging transaction or position, specified by contract month and by the type of limit as spot month, single month, or all-months-combined, as applicable; (K) Any size limitations or conditions established for a spread exemption or other exemption; and (L) For bona fide hedging transactions or positions, a concise summary of the applicant’s activity in the cash markets and swaps markets for the commodity underlying the commodity derivative position for which the application was submitted.

⁷ 4 exchanges × 12 months = 48 total monthly reports per year.

⁸ 5 hours per monthly report × 12 months = 60 hours per year for each exchange. 60 annual hours × 4 exchanges = 240 aggregate annual hours for all exchanges.

⁹ 1 exchange × 1 application × 10 hours per application × \$127 per hour = \$1,270 total.

Under § 150.2(f), upon request from the Commission, DCMs listing a core referenced futures contract are required to supply to the Commission deliverable supply estimates for each core referenced futures contract listed at that DCM. DCMs will only be required to submit estimates if requested to do so by the Commission on an as-needed basis. When submitting deliverable supply estimates, DCMs will be required to provide a description of the methodology used to derive the estimate, as well as any statistical data supporting the estimate. Appendix C to part 38 sets forth guidance regarding estimating deliverable supply.

The Commission estimates that it will request a revised deliverable supply estimate report from one DCM that lists a core referenced futures contract. The Commission further estimates that it will take 10 hours to complete and file the report for a total annual burden of 10 hours for all respondents.¹⁰ Assuming an estimated average burden hour cost of \$94, the total annual burden hour cost for the one respondent is approximately \$940 (10 burden hours × 1 respondent × \$94 per hour = \$940).

iv. Special Calls

The Commission maintains its estimate that § 150.3(e) will impose information collection burdens related to special calls by the Commission on approximately 20 respondents, for an estimated 20 special calls per year. The Commission estimates that these 20 market participants will provide one submission per year to respond to the special call for a total of 20 annual submissions for all respondents. The Commission estimates it will take a market participant approximately 10 hours to complete a response to a special call. Therefore, the Commission estimates responses to special calls for information will take an aggregate total of 200 burden hours for all traders. Assuming an estimated average burden hour cost of \$127, the total annual burden hour cost for all 20 respondents is approximately \$25,400.

v. Other Burdens

Regulation 150.3(d) establishes recordkeeping requirements for persons who claim any exemptions or relief under § 150.3. First, under § 150.3(d)(1), any person claiming an exemption is required to keep and maintain complete books and records concerning certain details.¹¹ Regulation 150.3(d)(1) establishes recordkeeping requirements for any person relying on an exemption, whether “self-effectuating” under §§ 150.3(a) or granted directly from the Commission under § 150.3(b). Based on its observation since the issuance of the Final Rule, the Commission estimates that 300 traders will create 3 records each for a total of 900 annual records for all respondents.¹² The Commission further estimates that it will take one hour to comply with the recordkeeping requirement of § 150.3(d)(1) for a total of three aggregate annual burden hours per trader and a total of 900 burden hours for all traders. Assuming an estimated average burden hour cost of \$94, the total annual burden hour cost for all record keepers is approximately \$84,600 (900 burden hours × \$94 per hour = \$84,600).

¹⁰ 10 hours × 1 exchange = 10 total annual burden hours.

¹¹ The requirement includes all details of related cash, forward, futures, options, and swap positions and transactions, including anticipated requirements, production and royalties, contracts for services, cash commodity products and by-products, cross-commodity hedges, and a record of bona fide hedging swap counterparties.

¹² As discussed above, the Commission anticipates that most traders will apply for exemptions under the process established under § 150.9, rather than under the § 150.3 process.

Second, under § 150.3(d)(2), a pass-through swap counterparty, as defined by § 150.1, that relies on a representation received from a bona fide hedging swap counterparty that the swap qualifies in good faith as a “bona fide hedging position or transaction,” as defined under § 150.1, is required to: (i) maintain the relevant books and records of any such written representation for at least two years following the expiration of the swap; and (ii) furnish any books and records of such written representation to the Commission upon demand. Regulation 150.3(d)(2) imposes a recordkeeping obligation for certain persons relying on the pass-through swap representations, and based on its experience since the issuance of the Final Rule, the Commission estimates that 6 traders will be requested to maintain the required records. The Commission estimates that each trader will maintain at least 3 records per year for a total of 18 aggregate annual records for all respondents. The Commission further estimates that it will take one hour to comply with the recordkeeping requirement of § 150.3(d) for a total of 3 annual burden hour for each trader and 18 aggregate annual burden hours for all traders. Assuming an estimated average burden hour cost of \$94, the total annual burden hour cost for the estimated one record-keeper is approximately \$1,692.

vi. Non-enumerated Bona Fide Hedge Application Process

Regulation 150.9 established a new streamlined process in which a trader can apply with an initial submission through an exchange to request a non-enumerated bona fide hedging recognition from federal position limits. As part of the process, § 150.9 imposes certain recordkeeping and reporting obligations on the market participant and the exchange, including: (i) an application to request non-enumerated bona fide hedge recognitions, which the trader submits to the exchange and which the exchange subsequently provides to the Commission if the exchange approves the application for purposes of exchange-set limits; (ii) a notification to the Commission and the applicant of the exchange’s determination for purposes of exchange limits regarding the trader’s request for recognition of a bona fide hedge exemption; (iii) and a requirement to maintain full, complete and systematic records for Commission review of the exchange’s decisions.

Before proceeding, the Commission emphasizes that based on its experience since the issuance of the Final Rule, the Commission estimates 0 burden hours and 0 responses related to Regulation 150.9 (including all of its subparts). This is because the Commission continues to believe that traders will be able to continue to avail themselves of the enumerated bona fide hedges as expanded by the Final Rule and thus won’t have a need to apply for a non-enumerated bona fide hedge under Regulation 150.9. This observation is consistent with what the Commission has observed since the Final Rule – the Commission is not aware of any trader that has submitted an application under Regulation 150.9. However, the Commission will describe the requirements under Regulation 150.9 for the sake of completeness.

Regulation 150.9(c) requires a trader to submit an application with certain information to enable the exchange to determine whether it should recognize a position as a bona fide hedge for purposes of exchange-set position limits. Each applicant will need to reapply to the exchange for its non-enumerated bona fide hedge recognition for the purpose of exchange-set position limits at least on an annual basis by updating its original application. The Commission expects that traders would benefit from the streamlined framework established under § 150.9 because traders may submit one application to obtain a non-enumerated bona fide hedge recognition for purposes of both exchange-set and federal position limits, as opposed to submitting separate applications

to the Commission for federal position limit purposes and separate applications to an exchange for exchange limit purposes.¹³

Regulation 150.9(d) requires exchanges to keep full, complete, and systematic records, including all pertinent data and memoranda, of all activities relating to the processing of such applications and the disposition thereof. In addition, as provided for in § 150.9(g) and existing § 1.31, the Commission may, in its discretion, at any time, review the exchange's records retained pursuant to § 150.9(d) or request additional information pursuant to § 150.9(e)(5). The recordkeeping requirement is necessary for the Commission to review the exchanges' processes, retention of records, and compliance with requirements established and implemented under § 150.9.

Regulation 150.9(d)(2), allows the Commission to inspect and exchange's books and records related to the non-enumerated bona fide hedge application process.¹⁴

Under § 150.9(e), an exchange needs to provide an applicant and the Commission with notice of any approved application of an exchange's determination to recognize bona fide hedges with respect to its own position limits for purposes of exceeding the federal position limits.

In addition to submitting a copy of any exchange-approved non-enumerated bona fide hedge application to the Commission under § 150.9(e), the preamble to the Final Rule clarifies that an exchange may, on a voluntary basis, send the Commission an advance courtesy copy of the non-enumerated bona fide hedge application when the exchange first receives it from the applicant. Although this advance courtesy copy would be a voluntary submission, it is still considered a new information collection under the PRA.

As outlined in Attachment A, annual costs associated with these burden hours total is \$0 since the Commission is not aware of any information collection since the Final Rule nor does the Commission expect any information collections in the future.

vii. Aggregation

¹³ The Commission believes the collections of information set forth above are necessary for the exchange to process requests for recognition of non-enumerated bona fide hedges for purposes of exchange-set position limits, and separately, if applicable, for the Commission to make its determination for purposes of federal position limits. The information is used by the exchange to determine, and the Commission to review and determine, whether the facts and circumstances demonstrate it is appropriate to recognize a position as a non-enumerated bona fide hedging transaction or position.

¹⁴ Regulation 150.9(d)(1) requires the exchange to keep full, complete, and systematic records, which include all pertinent data and memoranda, of all activities relating to the processing of such applications and the disposition thereof. This requirement working in concert with § 1.31 allows the Commission to inspect any such records. Separately, under § 150.9(e)(5), if the Commission determines additional information is required to conduct its review, then it would notify the exchange and the relevant market participant of any issues identified and provide them with an opportunity to provide supplemental information. Further, Regulation 150.9(g)(1) provides the Commission's authority to, at its discretion, and at any time, review the exchange's processes, retention of records, and compliance with requirements established and implemented under this section. Under § 150.9(g)(2), if the Commission determines additional information is required to conduct its review, pursuant to § 150.9(g)(1), then it would notify the exchange and the relevant market participant of any issues identified and provide them with ten business days to provide supplemental information.

Regulation 150.4 requires collections of information related to the aggregation of accounts for Commission set position limits. Rule 150.4(b)(2) establishes an exemption for a person to disaggregate the positions of a separately organized entity (“owned entity”). To claim the exemption, a person would need to meet certain criteria and file a notice with the Commission in accordance with regulation 150.4(c). The notice filing would need to demonstrate compliance with certain conditions set forth in regulations 150.4(b)(2)(i). Similar to other exemptions from aggregation, the notice filing would be effective upon submission to the Commission, but the Commission may call for additional information as well as reject, modify or otherwise condition such relief. Further, such person would be obligated to amend the notice filing in the event of a material change to the filing.

Rule 150.4(b)(4) includes an exemption for independent account controllers (the “IAC exemption”), which also includes additional “eligible participants” that can file for the exemption. To claim the exemption, a person needs to meet certain criteria and file a notice with the Commission in accordance with regulation 150.4(c). Similar to other exemptions from aggregation, the notice filing is effective upon submission to the Commission, but the Commission may call for additional information as well as reject, modify or otherwise condition such relief. Further, such person is obligated to amend the notice filing in the event of a material change to the filing.

Regulation 150.4(b)(7) provides an exemption from aggregation where the sharing of information between persons would cause either person to violate federal law. The exemption applies to a situation where the sharing of information creates a reasonable risk of a violation of federal, state, or foreign law or regulations adopted thereunder. The rules also have a requirement that market participants file a notice demonstrating compliance with the condition, including an internal memorandum of counsel. The memorandum allows Commission staff to review the legal basis for the asserted regulatory impediment to the sharing of information, and is particularly helpful where the asserted impediment arises from laws and/or regulations that the Commission does not directly administer. Further, Commission staff have the ability to consult with other federal regulators as to the accuracy of the opinion, and to coordinate the development of rules surrounding information sharing and aggregation across accounts in the future.

The Commission believes the rules would result in 340 annual responses from 240 respondents and a paperwork burden of \$642,960. However, due to relief provided most recently by CFTC Staff Letter 25-21, market participants are not required to fulfill these reporting requirements.¹⁵ Accordingly, the Commission’s estimates related to Regulation 150.4 are purely hypothetical.

vii. Reports by Reporting Firms

As discussed above, the Final Rule moved the information collections and related burdens under part 19 of the Commission’s regulations to OMB control number 3038-0013. Part 19 requires certain “cotton on-call” reports, which generally are submitted by market participants weekly.

¹⁵ See CFTC Staff Letter 25-21, available at <https://www.cftc.gov/PressRoom/PressReleases/9095-25>. To date, market participants have never been required to fulfill reporting requirements under Regulation 150.4.

Based on the most recent filings, the Commission estimates 40 reportable traders are required to file Part III of Form 304.¹⁶ Thus, the Commission continues to expect approximately 40 weekly Form 304 reports, for an annual total of 2,080 reports¹⁷ for an aggregate total of 1,040 burden hours.¹⁸ Assuming an estimated average burden hour cost of \$94, the total annual burden hour cost for the 40 respondents is approximately \$97,760 (1,040 total hours × \$94 per hour = \$97,760 total cost).

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 notes that it is difficult to ascertain an estimate of the average cost to market participants, as, depending on its size and complexity, a market participant could comply with position limits using anything from an Excel spreadsheet to multiple transaction capture systems. In addition, the Commission maintains its belief that market participants will continue to leverage existing systems and strategies for tracking and reporting positions. Thus, the

¹⁶ Since the Commission's Final Rule eliminates Parts I and II of Form 304, amended Form 304 only refers to existing Part III of that form.

¹⁷ 40 weekly Form 304 reports × 52 weeks = 2080 total annual Form 304 reports.

¹⁸ 2,080 Form 304 reports × 0.5 burden hours per report = 1,040 aggregate annual burden hours.

Commission believes that there will not be additional capital/startup costs or operational/maintenance costs incurred by respondents to comply with the regulations.

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

The Commission estimates that the equivalent of approximately 75,000 annual labor hours will be required in order to review, process, and respond to the relevant reports under this OMB Control number. The staff needed includes attorneys, industry economists, and information technology staff, including computer programmers. These estimates are based on estimated labor costs associated with processing analogous reporting for existing federal position limits for certain agricultural futures contracts. Assuming, on average, at a minimum CT-13 pay grade for Commission employees in Washington, D.C. for 2025, or \$137,681, multiplied by 1.3 and 1.25 to account for overhead and benefits respectively, each employee will cost the Commission approximately \$223,732. At approximately 1,920 annual hours worked per employee, this results in an average annual salary and benefits rate of \$117 per hour for a full-time employee ($\$223,732 / 1,920 \text{ hours} = \117 per hour). Accordingly, the Commission estimates that the cost to the government will be approximately \$5,703,750 annually ($39 \text{ analysts} \times 5 \text{ hours per day} \times 250 \text{ trading days} \times \$117 \text{ per hour} = \$5,703,750$).

- 15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14.**

There are no program changes. The Commission is retaining its existing estimates of total respondents (776 respondents), total annual responses (4,648 annual responses), and annual hours burden (11,748 burden hours). The Commission has revised its associated labor cost estimates using updated BLS wage rates, yielding an estimated \$1,200,0062 in associated annual labor costs.

- 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.

- 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.

- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions."**

Not applicable.

Attachment A

OMB Control Number 3038-0013 – Position Limits

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 × 4)	6. Estimated Average Burden Hour Cost^{19, 20}	7. Total Average Hour Burden Cost Per Respondent (5 × 6)	8. Total Annual Responses (2 × 3)	9. Total Annual Number of Burden Hours (2 × 5)	10. Total Annual Burden Hour Cost of All Responses (2 × 7)
19.02 Cotton On-Call Reports (Form 304)	40	52	0.5	26	\$94	\$2,444	2,080	1,040	\$97,760
150.2(f) Estimates of Deliverable Supply	1	1 ²¹	10	10	\$94	\$940	1	10	\$940
150.3(b) Direct application to the Commission for non- enumerated Bona Fide Hedge and Spread exemptions ²²	0	0	20	0	\$127	\$0	0	0	\$0

²¹ The Commission anticipates that exchanges that wish to provide an updated methodology for a deliverable supply estimate will do so under Commission Regulation 40.6(a) (self-certification of rules) and pursuant to Appendix C to Part 38 rather than under this information collection.

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 × 4)	6. Estimated Average Burden Hour Cost,	7. Total Average Hour Burden Cost Per Respondent (5 × 6)	8. Total Annual Responses (2 × 3)	9. Total Annual Number of Burden Hours (2 × 5)	10. Total Annual Burden Hour Cost of All Responses (2 × 7)
150.3 (e) Special Call for persons claiming an exemption	20	1	10	10	\$127	\$1,270	20	200	\$25,400
150.4(c) Aggregation of Positions ²³	240	1.4	20.1	28.5	\$94	\$2,679	340	6,840	\$642,960
150.5(a) Exemption applications to exchanges for contracts subject to federal position limits	300	3	2	6	\$127	\$762	900	1,800	\$228,600
150.5(a)(4) Monthly Reports detailing the disposition of each exemption	4	12	5	60	\$127	\$7,620	48	240	\$30,480

²² The Commission has not received any direct applications under § 150.3(b) nor does the Commission expect to receive any going forward. The estimated burden hours per response of 20 hours is merely a hypothetical estimate.

²³ The Commission's substantive estimates of the information collections related to Regulation 150.4 have not changed from the prior estimates submitted in 2023. However, some of the values have changed since the Commission is now rounding to the first decimal point. The Commission notes that the information collections contained in Regulation 150.4 are subject to no-action letter 25-21, so these estimates are hypothetical as market participants this information to the Commission. Further, the Commission notes that the associated costs have changed since the Commission is now applying the same blended rate to this item that it has used for the other information collections in the Final Rule.

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 × 4)	6. Estimated Average Burden Hour Cost,	7. Total Average Hour Burden Cost Per Respondent (5 × 6)	8. Total Annual Responses (2 × 3)	9. Total Annual Number of Burden Hours (2 × 5)	10. Total Annual Burden Hour Cost of All Responses (2 × 7)
application									
150.5(b)(3) Exchange limits that are not comparable to existing contracts (for look-alike contracts not subject to Federal position limits).	1	1	10	10	\$127	\$1,270	1	10	\$1,270
150.5(b)(4) Exemption Applications for exchange limits for contracts not subject to federal position limits	170	2	2	4	\$127	\$508	340	680	\$86,360

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 × 4)	6. Estimated Average Burden Hour Cost,	7. Total Average Hour Burden Cost Per Respondent (5 × 6)	8. Total Annual Responses (2 × 3)	9. Total Annual Number of Burden Hours (2 × 5)	10. Total Annual Burden Hour Cost of All Responses (2 × 7)
150.9(e)(1) Notices regarding applications for non-enumerated bona fide hedge exemptions ²⁴	0	0	0.5 ²⁵	0	\$94	\$0	0	0	\$0
150.9(e) ²⁶ Notices regarding applications for non-enumerated bona fide hedge applications	0	0	0.08 ²⁷	0	\$94	\$0	0	0	\$0

²⁴ The Commission stated in the preamble to Final Rule that the Commission did not anticipate many market participants applying for non-enumerated bona fide hedge exemptions since the Final Rule, among other things, expanded the list of enumerated bona fide hedge exemptions. To-date, the Commission is unaware of a single application submitted for a non-enumerated bona fide hedge exemption.

²⁵ The estimated burden hours per response of 0.5 hours is merely a hypothetical estimate and is not intended to imply that the Commission anticipates receiving an information collection under Commission Regulation 150.9.

²⁶ In addition to submitting a copy of any exchange-approved non-enumerated bona fide hedge application to the Commission under § 150.9(e)(1), the preamble to the Final Rule clarifies that an exchange may, on a voluntary basis, send the Commission an advance courtesy copy of the non-enumerated bona fide hedge application when the exchange first receives it from the applicant. This row represents this possible voluntary information collection. Additionally, the Commission notes that this information collection was incorrectly listed as a “recordkeeping” burden in the previously-submitted Supporting Statement.

²⁷ The estimated burden hours per response of 0.08 hours is merely a hypothetical estimate and is not intended to imply that the Commission anticipates receiving an information collection under Commission Regulation 150.9.

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 × 4)	6. Estimated Average Burden Hour Cost,	7. Total Average Hour Burden Cost Per Respondent (5 × 6)	8. Total Annual Responses (2 × 3)	9. Total Annual Number of Burden Hours (2 × 5)	10. Total Annual Burden Hour Cost of All Responses (2 × 7)
Total ²⁸	776						3,730	10,830	\$1,113,770

²⁸ The values in this row are determined by adding the values of the same column in all the rows above rather than multiplying the cells in this row (*e.g.*, the value in column 8 in this row is found by summing the values in this column in all the above rows rather than multiplying cells 2 and 3 in this row).

Recordkeeping Burden²⁹

1. Regulation(s)	2. Estimated Number of Respondents	3. Estimated Number of Records by Each Respondent	4. Estimated Average Number of Burden Hours per Record	5. Annual Number of Burden Hours per Respondent (3 × 4)	6. Estimated Average Burden Hour Cost ³⁰	7. Total Average Hour Burden Cost Per Respondent (5 × 6)	8. Total Annual Records (2 × 3)	9. Total Annual Number of Burden Hours (2 × 5)	10. Total Annual Burden Hour Cost of All Records (2 × 7)
150.3(d)(1) People who avail themselves of federal exemptions need to keep records	300	3	1	3	\$94	\$282	900	900	\$84,600
150.3(d)(2) Pass-through Swap records	6	3	1	3	\$94	\$282	18	18	\$1,692
150.9(d) Records of applications for non-enumerated bona fide hedge exemptions	0	0	5 ³¹	0	\$94	\$0	0	0	\$0
150.9(d)(2) ³²	0	0	8 ³³	0	\$94	\$0	0	0	\$0

²⁹ The rule imposes specific recordkeeping requirements, but which only apply to 306 out of the 776 respondents. For the avoidance of doubt, these 306 respondents identified in this recordkeeping burdens table are part of the 776 respondents counted in the recordkeeping burdens table and do not represent additional or different respondents. Accordingly, the total number of respondents affected under the OMB control number is 776 respondents. There are no specific recordkeeping requirements for the remaining 470 respondents identified in the reporting burdens table (776 respondents – 306 respondents = 470 respondents).

³⁰ The Commission is providing a blended rate using estimated industry specific wages for General and Operations Managers, Lawyers and Compliance Officers. Per the BLS, national industry-specific occupational employment and wage estimates with data collected from employers in the securities, commodity contracts, and other financial investments and related activities provides that the mean hourly wage for a general and operations manager is \$109, lawyer is \$127, and compliance officer is \$45. The average of those wages is \$94. See May 2023 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 523000 - Securities, Commodity Contracts, and Other Financial Investments and Related Activities, *available at*: https://www.bls.gov/oes/2023/may/naics3_523000.htm

³¹ The estimated burden hours per response of 5 hours is merely a hypothetical estimate and is not intended to imply that the Commission anticipates receiving an information collection under Commission Regulation 150.9.

Records of applications for non-enumerated bona fide hedge exemptions									
Total: ³⁴	306						918 ³⁵	918	\$86,292

Estimated number of respondents: 776.

Estimated total annual responses: 4,648.

Estimated total annual burden hours for all respondents: 11,748 hours.

Estimated total annual labor costs: \$1,200,062.

Frequency of Collection: As needed.

³² Regulation 150.9(d)(1) requires the exchange to keep full, complete, and systematic records, which include all pertinent data and memoranda, of all activities relating to the processing of such applications and the disposition thereof. This requirement working in concert with § 1.31 via Regulation 150.9(d)(2) allows the Commission to inspect any such records. As noted in connection with other information collections under Regulation 150.9, the Commission does not anticipate any information collections under this item.

³³ The estimated burden hours per response of 8 hours is merely a hypothetical estimate and is not intended to imply that the Commission anticipates receiving an information collection under Commission Regulation 150.9.

³⁴ The values in this row are determined by adding the values of the same column in all the rows above rather than multiplying the cells in this row (*e.g.*, the value in column 8 in this row is found by summing the values in this column in all the above rows rather than multiplying cells 2 and 3 in this row).