SUPPORTING STATEMENT FOR NEW AND REVISED INFORMATION COLLECTIONS

Ownership and Control Reports, Forms 102/102S, 40/40S, and 71

OMB CONTROL NUMBER 3038-0103

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.

In 2013, the Commodity Futures Trading Commission ("CFTC" or "Commission") adopted rules and related forms (the "OCR rules") to enhance its identification of futures and swap market participants.[1] The OCR rules modified the Commission's large trader reporting rules (also referred to herein as the "reporting rules"), which are contained in parts 15 through 21 of the Commission's regulations.[2] The reporting rules were structured to collect information with respect to positions in "open contracts,"[3] including: (1) information necessary to identify persons who hold or control "reportable positions"[4] in open contracts (via old Form 40); and (2) information necessary to identify "special accounts"[5] (via old Form 102). The OCR rules modified the prior reporting rules and forms as they pertain to positions in open contracts. Specifically, the Commission expanded the reporting rules and forms so that they may also be used to identify "volume threshold accounts,"[6] regardless of whether such activity results in reportable positions. Volume threshold accounts could reflect, without limitation, trading in futures, options on futures, swaps, and any other products traded on or subject to the rules of a DCM or SEF. Volume threshold accounts associated with DCMs and SEFs are required to be reported by clearing members, as discussed in sections V(B) and VII of the OCR rules.

The amended OCR reporting rules and forms achieve three primary purposes. First, they expand and subdivide Form 102, which is partitioned into three sections: section 102A for the identification of position-based special accounts ("Form 102A"); section 102B for the collection of ownership and control information from clearing members on volume threshold accounts associated with DCMs or SEFs ("Form 102B"); and section 102S for the submission of 102S

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[1] Ownership and Control Reports, Forms 102/102S, 40/40S, and 71, Final Rule, 78 FR 69178 (Nov. 18, 2013) ("2013 OCR Final Rule Notice"). Capitalized terms used without definition herein have the meaning assigned to them in the OCR rules.

[2] 17 CFR 15 through 21. The OCR rules generally relate to parts 15, 17, 18 and 20 of the Commission's regulations.

[3] "Open contract" means any commodity or commodity option position "held by any person on or subject to the rules of a board of trade which have not expired, been exercised, or offset." *See* §§ 1.3(t) and 15.00(n).

[4] A "reportable position" is defined in § 15.00(p) as "any open contract position that at the close of the market on any business day equals or exceeds the [Commission's reporting levels specified in § 15.03]."

[5] A "special account" is defined in § 15.00(r) as "any commodity futures or option account in which there is a reportable position."

[6] "Volume threshold accounts" are defined in § 15.00(x) as individual trading accounts that trigger volume-based reporting thresholds on a reporting market that is a registered entity under §§ 1a(40)(A) or 1a(40)(D) of the Commodity Exchange Act ("CEA" or "Act") (i.e., a designated contract market ("DCM") or a swap execution facility ("SEF")).

filings for swap counterparty and customer consolidated accounts with reportable positions ("Form 102S," or "102S filings"). Second, the updated reporting rules and forms enhance the Commission's surveillance and large trader reporting programs for futures, options on futures, and swaps through a variety of enhancements, including: requiring the reporting on Form 102A of the trading accounts that comprise each special account; requiring the reporting of certain omnibus account information on Form 71 upon special call by the Commission;[7] updating Form 40; and integrating the submission of 102S and 40S filings into the general Form 102 and Form 40 reporting program. Finally, the rules provide for the electronic submission of Forms 102, 40, and 71 through either a web portal or secure FTP transmission.

The reporting rules are primarily implemented by the Commission pursuant to §§ 4a, 4c(b), 4g, and 4i of the CEA.[8] Section 4a of the CEA, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"),[9] requires the Commission to set and enforce speculative position limits with respect to both futures and swaps.[10] Section 4c(b) gives the Commission plenary authority to regulate transactions that involve commodity options.[11] Section 4g(a) of the CEA requires, among other things, each futures commission merchant ("FCM"), introducing broker, floor broker, and floor trader to file such reports as the Commission may require on proprietary and customer transactions and positions in commodities for future delivery on any board of trade in the United States or elsewhere. In addition, § 4g(b) requires registered entities to maintain daily trading records as required by the Commission, and § 4g(c) requires floor brokers, introducing brokers, and FCMs to maintain their own daily trading records for each customer in such manner and form as to be identifiable with the daily trading records maintained by registered entities. Section 4g(d) permits the Commission to require that such daily trading records be made available to the Commission.[12] Lastly, § 4i of the CEA mandates the filing of such reports as the Commission may require when positions taken or obtained on DCMs equal or exceed Commission-set levels.[13] Collectively, these CEA provisions warrant the maintenance of an effective and rigorous system of market and financial surveillance.

Title VII of the Dodd-Frank Act amended the CEA to establish a comprehensive new regulatory framework for swaps and security-based swaps. As part of the Commission's rulemaking program implementing the Dodd-Frank Act,[14] the rule changes adopted in the OCR rules include swaps-related considerations in connection with the Commission's large trader

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[7] Information regarding the owners and controllers of volume threshold accounts reported on Form 102B and that are identified as omnibus accounts ("omnibus volume threshold accounts") are collected by the Commission directly from originating firms, via Form 71.

[8] 7 U.S.C. 1 *et seq*. In addition, CEA § 8a(5) authorizes the Commission to promulgate such regulations as, in its judgment, are reasonably necessary to effectuate any provision of the CEA or to accomplish any of the purposes of the CEA. 7 U.S.C. 12a(5). The OCR rules are also consistent with the purposes enumerated in CEA § 3(b), which states that the CEA seeks to ensure the financial integrity of regulated transactions and to prevent price manipulation and other disruptions to market integrity. 7 U.S.C. 5(b).

[9] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at https://www.cftc.gov./LawRegulation/OTCDERIVATIVES/index.htm.

[10] 7 U.S.C. 6a.

[11] 7 U.S.C. 6c(b).

[12] 7 U.S.C. 6g(a)-(d).

[13] 7 U.S.C. 6i.

[14] *See generally* https://www.cftc.gov/LawRegulation/DoddFrankAct/index.htm.

reporting rules for swaps, enacted in 2011.[15] CEA § 4t acknowledges the Commission's authority to establish a large trader reporting system for swaps that the Commission has determined perform a significant price discovery function; accordingly, the swaps-related considerations in the rules adopted in the OCR rules also rely in part on the Commission's authority in CEA § 4t.[16] Similarly, CEA § 4s(f) requires swap dealers and major swap participants to make such reports as required by the Commission by rule or regulation regarding the transactions and positions of the registered swap dealer or major swap participant.[17] In addition, CEA § 5h(f)(10) requires SEFs to report to the Commission, in a form and manner acceptable to the Commission, information that the Commission determines to be necessary or appropriate for the Commission to perform its duties under the CEA.[18]

The OCR rules created information collection requirements via §§ 17.01, 18.04, 18.05, and 20.5. OMB control number 3038-0103 covers such collection requirements arising from §§ 17.01, 18.04, 18.05, and 20.5.

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.

As discussed in section I(B) of the OCR rules, the rules enhance the Commission's trade practice and market surveillance programs for futures and options on futures, and facilitate surveillance programs for swaps, by expanding the information collected on old Forms 102 and 40, and introducing an information collection for omnibus volume threshold accounts in Form 71.[19] The rules also help implement the 102S and 40S filing requirements adopted in connection with the Commission's part 20 rules addressing large trader reporting for physical commodity swaps.[20] The OCR rules significantly enhance the Commission's ability to identify participants in the derivatives markets and to understand relationships between trading accounts, special accounts, reportable positions, and market activity. This enables the Commission to better deter and prevent market manipulation; deter and detect abusive or disruptive trading practices (such as marking the close, "wash trading," or money passing); and better perform risk-based review and surveillance between related accounts.

The OCR rules respond, in part, to the increased dispersion and complexity of trading in U.S. futures markets following their transition from localized, open-outcry venues to global electronic platforms. Although electronic trading has conferred important informational benefits upon regulators, the resulting increases in trading volumes, products offered, and trader dispersion have created equally important regulatory challenges. The OCR rules also facilitate the creation of a robust surveillance program for swaps that adequately captures information with respect to swap market participants.

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[15] 17 CFR 20.5(a) and (b) contain the 102S and 40S filing requirements. Final part 20 was published in the Federal Register on July 22, 2011. See Commission, Large Trader Reporting for Physical Commodity Swaps, 76 FR 43851 (July 22, 2011) ("Large Trader Reporting for Physical Commodity Swaps").

[16] 7 U.S.C. 6t.

[17] 7 U.S.C. 6s(f).

[18] 7 U.S.C. 7b-3(f)(10).

[19] *See* section V of the OCR rules for a discussion of Form 71 and omnibus volume threshold accounts.

[20] *See* section V of the OCR rules for a discussion of the 102S and 40S filing requirements. *See also* 17 CFR 20.5(a) and (b). Final part 20 was published in the Federal Register on July 22, 2011.

In order to perform effective surveillance, the Commission must receive data sets that contain a sufficient number of reference points for the Commission to uncover relationships between related accounts, and analyze information based on surveillance criteria that are frequently evolving in response to market events. The collection of additional information regarding trading accounts and traders enables the Commission to perform more efficient and effective surveillance. In particular, the OCR data collection enables the Commission to link transaction-level data that it receives (which includes trading account numbers, but not traders' names) to position-based data (which includes large traders' names, but not their trading account numbers), as explained below.

As discussed in section I(B) of the 2013 OCR Final Rule Notice,[21] "Commission staff utilizes two distinct data platforms to conduct market surveillance: the Trade Surveillance System ('TSS') and the Integrated Surveillance System ('ISS'). Broadly speaking, TSS captures transaction-level details of trade data, while ISS facilitates the storage, analysis, and mining of large trader data from a position perspective. One important component of TSS is the Trade Capture Report ('TCR'). Trade Capture Reports contain trade and related order data for every matched trade facilitated by an exchange, whether executed via open-outcry, electronically, or non-competitively. Among the data included in the TCR are trade date, product, contract month, trade time, price, quantity, trade type (e.g., open outcry outright future, electronic outright option, give-up, spread, block, etc.), executing broker, clearing member, opposite broker and clearing member, customer type indicator, trading account numbers, and numerous other data points." The OCR data collection addresses a gap in the prior system by providing common reference points between TSS and ISS data. Form 102A, for example, is structured to collect special account numbers,[22] trading account numbers that comprise the special account, and the names of owners and controllers of both special accounts and such trading accounts, thereby linking TSS data to ISS data.[23]

The data collection also helps the Commission to better identify and categorize individual trading accounts and market participants that trigger position or volume-based reporting thresholds. For example, Form 102A requires reporting firms to identify the constituent trading accounts of each reported special account. In this manner, Form 102A ensures a greater level of interoperability between the Commission's TSS trade data and ISS large trader data, and permits Commission staff to quickly reconstruct trading for any special account. In addition to linking the two databases, Form 102A identifies both the owners and controllers of such constituent trading accounts, thereby providing the Commission with a lens through which to identify and surveil market activity that might otherwise appear unrelated to the Commission's surveillance programs.

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[21] *See* 2013 OCR Final Rule Notice, *supra* note 1 at 69180.

[22] As discussed in section III(A) in the OCR rules, a special account is a commodity futures or option account that has a reportable position, based on reporting levels set by the Commission. A special account number is a unique account identifier assigned by an FCM, clearing member, or foreign broker to a special account. *See* 17 CFR 17.00(g)(2)(iii) and 17 CFR 17.01(a). Special account numbers are included in ISS data. The special account number does not correspond to the trading account number reported on the Trade Capture Report. Accordingly, the special account number is not sufficient to link TSS data to ISS data.

[23] For a complete discussion of the reporting requirements with respect to ownership information, see section V(A)(i) of the 2013 OCR Final Rule Notice.

Form 102B requires the identification of trading accounts based solely on their total trading volume during a single trading day. This information collection enhances the Commission's trade practice surveillance program by revealing connections of ownership or control between trading accounts that otherwise appear unrelated in the TCR. More generally, it facilitates Commission efforts to detect and deter attempted market disruptions that may occur, even in the absence of large open positions that are reportable on Form 102A. Finally, the automated collection of OCR information via electronic forms, rather than through ad hoc, manual processes, permits both the Commission and market participants to administer the reporting programs more efficiently and effectively.

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.

In order to provide flexibility to reporting parties, the OCR rules provide that reporting parties may submit each of the forms through either a web-based portal or an XML-based, secure FTP data feed. The Commission offers two filing methods for each form because reporting parties have a wide range of technological capabilities (varying based on the relative size and experience of a given reporting party). Reporting parties may select the submission method that works best with their existing data and technology infrastructure and the number of filings they expect to make. Those reporting parties electing to submit information through the FTP data feed are advised in the OCR rules to contact the Commission, which will provide the necessary technical information to establish the data feed. Commission staff has published guidance in connection with the OCR rules, including technical guidance regarding the submission of data.[24]

In addition, the Commission created a reference database so that respondents will not need to enter contact information each time they manually complete a Form 102A, 102B or 102S through the web portal. For example, the respondent would enter the account number for the applicable form, and the web portal page would automatically populate the contact information for that account number which the respondent had most recently provided.

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 via Forms 102B and 71 was not required to be collected by the Commission before the OCR rules and was not available for public disclosure through any other source. Portions of information collected via current Forms 102 and 40 were previously available via old Forms 102 and 40; however, those old forms were replaced and eliminated once current Form 102 and Form 40 became operational, thereby eliminating any overlap.

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

[24] *See generally* https://www.cftc.gov/Forms/OCR/index.htm.

As discussed in section VIII(C) of the 2013 OCR Final Rule Notice, the rules with respect to Forms 102 and 71 will not have a significant economic impact on a substantial number of "small entities" for purposes of the Regulatory Flexibility Act ("RFA"). The OCR rules also require certain reporting traders to complete and submit Form 40 upon special call by the Commission. Some of these reporting traders may be "small entities" under the RFA. The Commission has received comments on its Dodd-Frank Act rulemakings indicating that certain entities that may be required to comply with the reporting and recordkeeping requirements in the OCR rules have been determined by the Small Business Administration to be small entities. In particular, the Commission understands that some not-for-profit electric generators, transmitters, and distributors that may be required to comply with the OCR rules have been determined to be small entities by the Small Business Administration, because they are "primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and [their] total electric output for the preceding fiscal year did not exceed 4 million megawatt hours."[25]

The Commission believes that, due to the limited number of institutions likely to receive a Form 40 request in any given year, as well as the limited nature of the Form 40 reporting burden, the OCR rules with respect to Form 40 do not have a significant economic impact on a substantial number of small entities. Form 40 is not be required on a routine and ongoing basis, but rather is sent by the Commission on a discretionary basis in response to the reporting of an account that reaches a minimum position or volume threshold. As a result, Form 40 affects only a small subset of the entities that may be small entities under the RFA. In addition, Form 40 is not lengthy or complex, and requires reporting traders to provide only limited information to the Commission. The Commission estimates that a reporting trader submitting Form 40 via the web-based portal will require five hours, on an annualized basis, to complete the form.[26]

The OCR rules regarding § 18.05 also impose books and records obligations upon a category of market participants—specifically, certain owners and controllers of a volume threshold account or a reportable sub-account, in connection with trading on a DCM or SEF. Such owners may be small entities under the RFA. The Commission does not believe that the obligation to maintain books and records under § 18.05 imposes significant costs on the small entities subject to the recordkeeping requirements of such section. The Commission expects that such account owners largely rely on the books and records that they maintain in the ordinary course of business to fulfill the requirements of § 18.05. To the extent that certain small entities are required to modify their practices to comply with the volume-based recordkeeping requirements of § 18.05, the Commission believes that the resulting economic burden is appropriate, because this requirement: (a) ensures that (i) owners and controllers of volume threshold accounts and reportable sub-accounts and (ii) owners and controllers of reportable positions are subject to equivalent recordkeeping obligations under § 18.05, and therefore maintain books and records in a consistent format; and (b) promote the Commission's surveillance and investigatory functions to better deter price manipulation and other disruptions of market integrity.

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[25] Small Business Administration, *Table of Small Business Size Standards* (Nov. 5, 2010). *See also* the regulatory flexibility analyses regarding such entities in Final Rule, *Real-Time Public Reporting of Swap Transaction Data*, 77 FR 1182, 1240 (January 9, 2012); Final Rule, *Swap Data Recordkeeping and Reporting Requirements*, 77 FR 2136, 2170 (January 13, 2012); and Final Rules, *Registration of Swap Dealers and Major Swap Participants*, 77 FR 2613, 2620 (January 19, 2012).

[26] *See* the response to question 12 and Appendix A below.

6. Describe the consequence to the Federal Program or policy activities if the collection were conducted less frequently as well as any technical or legal obstacles to reducing burden.

If the collection were conducted less frequently than required by the OCR rules, the Commission may not be able to identify related accounts as efficiently or effectively; as a result, situations such as abusive trading between related accounts and attempted manipulations or congestion could persist and potentially impact market prices.

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;**

Respondents are required to report information to the Commission via the OCR reporting forms pursuant to the filing schedule set forth in Part 17 and Part 20.

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

This question does not apply. The OCR rules provide for electronic reporting.

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

This question does not apply. The OCR rules provide for electronic reporting.

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

For the purpose of enforcing the provisions of § 5(d)(17) of the CEA and the Commission's regulations thereunder, Commission rule 17 CFR § 1.31 requires that: "All books and records required to be kept by the [Commodity Exchange] Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the first two years of the five-year period. All such books and records shall be open to inspection by any representative of the Commission or the U.S. Department of Justice."

- **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 question does not apply. The OCR rules do not require any statistical surveys.

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

This question does not apply. The OCR rules do not require the use of any statistical data classification.

- **that includes a pledge of confidentiality that is not supported by authority established in statue 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 question does not apply. The OCR rules do not provide a 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 Commission will protect proprietary information in accordance with the Freedom of Information Act and 17 CFR part 145, "Commission Records and Information." In addition, § 8(a)(1) of the CEA 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."[27] The Commission is also required to protect certain information contained in a government system of records according to the Privacy Act of 1974, 5 U.S.C. 552a.

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.

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 3 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 August 6, 2026, the Commission published notice of its intent to renew this collection ("60-Day Notice"). 91 FR 50813 (Aug. 6, 2026). The Commission received one comment from an anonymous commenter stating that the burden analysis in the 60-Day Notice "aggregates seven distinct reporting and recordkeeping instruments (§§ 17.01, 18.04, 18.05, 20.5) across 1,779 heterogeneous entities without itemizing form-specific burden." The Commission,

[27] 7 U.S.C. 12(a)(1).

however, provides detailed burden estimates in this Supporting Statement. Moreover, the commenter did not otherwise comment on the Commission's burden estimates or the utility of the information collected. Accordingly, the Commission is retaining its burden estimates as proposed.

In addition, the Commission regularly consults with members of industry and regulated entities regarding the regulations and related information collecions covered by Collection 3038-0103.

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

Not applicable. This collection does not include 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.

The Commission does not provide respondents with an assurance of confidentiality beyond that provided by applicable law. The Commission fully complies with section 8(a)(1) of the Commodity Exchange Act, which strictly prohibits the Commission, unless specifically authorized by the Commodity Exchange Act, from making public "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers." The Commission has procedures to protect the confidentiality of an applicant's or registrant's data. These are set forth in the Commission's regulations at parts 145 and 147 of title 17 of the Code of Federal Regulations.

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

This question does not apply. None of the adopted regulations require the provision of sensitive information, as that 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.**
- **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 for a table illustrating the hour and associated labor cost burden for this collection.

Methodology Used to Estimate Costs

The Commission calculated the total estimated industry cost for submitting each form via FTP or via the web portal. For each form, these calculations represent the total industry cost if all reporting parties submit information via one method—as compared to the total industry cost if all parties submit via the other method.

For the reasons discussed in sections VIII(A) and (B) of the 2013 OCR Final Rule Notice, the Commission anticipates that total reporting and recordkeeping costs to the industry are likely to be lower than the sum of the costs associated with each form individually, as the Commission has calculated in the OCR rules.

The annualized costs per affected registrant and in the aggregate were determined using an average salary of $117 per hour.[28] Commission staff arrived at this hourly rate using figures from a weighted average of salaries and bonuses across different professional contained in the most recent BLS Occupation Employment and Wages Report (May 2025) multiplied by 1.3 to account for overhead and other benefits. The Commission believes that this is an appropriate salary estimate for purposes of this collection. The Commission estimated wage rate is a weighted national average of mean hourly wages for the following occupations (and their relative weight): "Lawyers" in the "Securities, Commodity Contracts, and Other Financial Investments and Related Activities Industry," which is $171.47 (25% weight); "Financial Managers" in the same industry, which is $161.80 (25% weight); "Compliance Officers" in the same industry, which is $67.23 (25% weight); and "Computer Programmers" in the "Cross-Industry" category, which is $65.73 (25% weight).[29] Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collection of information.

Costs of Individual Reporting Forms and Reporting and Recordkeeping Requirements

The discussion below considers the anticipated costs to the industry of Form 102A, Form 102B, Form 71, Form 40, Form 102S, Form 40S, and the reporting and recordkeeping requirements of § 18.05.

[28] Rounded to the nearest dollar.

[29] BLS Occupational Employment and Wage Statistics (Securities, Commodity Contracts, and Other Financial Investments and Related Activities (523000) (May 2025), available at: https://data.bls.gov/oes/#/industry/523000/2025.

Reporting

A. Form 102A (17 CFR 17.01(a))

The Commission assumes that each Form 102A reporting party will submit Form 102A via secure FTP, which the Commission believes is the more cost-effective of the two filing methods for the industry as a whole. Each FTP submission will likely contain numerous 102A records. The Commission estimates that the total initial development burden will average 264 hours per reporting party. The Commission also estimates that the highly automated nature of this option will virtually eliminate the marginal costs associated with each additional submission or each additional record contained in a submission. Accordingly, the Commission estimates that 102A change and refresh updates will not increase a reporting party's burden when using the FTP submission method. The Commission further estimates that the ongoing operation and maintenance burden will average 53 hours per year no matter how many records are contained in a submission. The total annualized initial development burden and the ongoing operation and maintenance burden (total yearly burden) will equal approximately 106 hours per reporting party.[30]

An assessment of Commission data collection efforts demonstrated that the Commission received Form 102A submissions from 312 reporting parties in 2019. The Commission anticipates that it will receive Form 102A submissions from a similar number of reporting parties each year. Assuming all Form 102A reporting parties utilize the FTP submission method, the Commission estimates that the total annual industry burden for Form 102A will equal 33,072 hours. Using an estimated wage rate of $117 per hour, annual industry costs for 102A filings made pursuant to the FTP submission method are estimated at $3,869,424. The Commission used the same wage rate of $117 when calculating the cost of submission via both the web portal and FTP. Each submission method will, nonetheless, require a different annual or annualized burden, in terms of hours.

Form 102A		
Regulation	**Estimated Total Annual Industry Cost**	**Anticipated Transmission Method[31]**
17.01(a)	$3,869,424	FTP

[30] All annualized development burden estimates are based on 5-year, straight line depreciation. The 106 hour figure is arrived at by dividing 264 hours (initial development burden per reporting party) by 5 years, which results in an estimated annualized initial development burden of 53 hours per reporting party. 53 hours plus 53 hours (annual, ongoing operation and maintenance burdens per reporting party) equals 106 hours per reporting party.

[31] The Commission estimated the total annual industry cost associated with each filing obligation by considering the two distinct filing methods that it will accommodate pursuant to the OCR rules (web-based submission and FTP submission). The estimated cost of each filing obligation assumes that all reporting parties will file via the less expensive of the two filing methods. However, reporting parties, given their own individualized needs, are assumed to make the most cost-effective choice for them, which may be either of the two methods.

B. Form 102B (17 CFR 17.01(b))

The Commission assumes that each Form 102B reporting party will submit Form 102B via secure FTP, which the Commission believes is the most cost-effective of the two filing methods for the industry as a whole. Each FTP submission will likely contain numerous 102B records. The Commission estimates that the total initial development burden should average 264 hours per reporting party. The Commission also estimates that the highly automated nature of this option will virtually eliminate the marginal costs associated with each additional submission or each additional record contained in a submission. Accordingly, the Commission estimates that 102B change and refresh updates will not increase a reporting party's burden when using the FTP submission method. The Commission further estimates that the ongoing operation and maintenance burden will average 53 hours per year no matter how many records are contained in a submission. The total annualized initial development burden and the ongoing operation and maintenance burden (total yearly burden) equals approximately 106 hours per reporting party.[32]

The Commission estimated the number of Form 102B reporting parties by estimating the number of clearing members associated with trading accounts that the Commission projects will qualify as volume threshold accounts.

- For volume threshold accounts associated with DCMs, the Commission anticipates that it will receive approximately 126,000 Form 102B submissions from approximately 100 reporting parties annually. Assuming that all such reporting parties utilize the FTP submission method, the Commission estimates that the total annual industry burden for the reporting of such accounts on Form 102B will equal 10,600 hours. Using an estimated wage rate of $117 per hour, annual industry costs for such filings made pursuant to the FTP submission method are estimated at $1,240,200.

- For volume threshold accounts associated with SEFs, the Commission anticipates that it will receive approximately 62,015 Form 102B submissions from a maximum of 75 reporting parties annually, although the actual number will likely be much less. Assuming that all such reporting parties utilize the FTP submission method, the Commission estimates that the maximum total annual industry burden for the reporting of such accounts on Form 102B will equal 7,950 hours.[33] Using an estimated wage rate of $117 per hour, annual industry costs for such filings made pursuant to the FTP submission method are estimated at $930,150.

Collectively, the Commission estimates that the total burden hours associated with Form 102B filings amount to 18,550 annual burden hours along with associated labor costs totaling $2,170,350.

Form 102B		
Regulation	**Estimated Total**	**Anticipated**

[32] All annualized development burden estimates are based on 5-year, straight line depreciation.
[33] The 7,950 hour figure is arrived at by multiplying 106 hours (annualized development burden and ongoing operation and maintenance burden per reporting party) by 75 reporting parties.

	Annual Industry Cost	Transmission Method
17.01(b)	$2,170,350	FTP

C. Form 71 (17 CFR 17.01(c))

The Commission assumes that each Form 71 reporting party (i.e., originators of omnibus volume threshold accounts or omnibus reportable sub-accounts) will complete and submit Form 71 online via a secure web-based portal provided by the Commission, which the Commission believes is the more cost-effective of the two filing methods for the industry as a whole. The Commission estimates that, on average, Form 71 will create an annual reporting burden of 8 hours per filing.[34]

As discussed in section VIII(A) of the OCR rules, the Commission expects a maximum of approximately 564 DCM-related Form 71 filings per year, and 198 SEF-related Form 71 filings per year, although the actual number of filings will likely be much less.

- Based on an estimated 564 DCM-related Form 71 filings per year, the Commission estimates an aggregate reporting burden of 4,512 hours annually for such filings via the web-based portal. Using an estimated wage rate of $117 per hour, annual industry costs for such filings made via the web-based portal are estimated at $527,904.

- Based on an estimated 198 SEF-related Form 71 filings per year, the Commission estimates an aggregate reporting burden of 1,584 hours annually for such filings via the web-based portal. Using an estimated wage rate of $111 per hour, annual industry costs for such filings made via the web-based portal are estimated at $185,328.

Collectively, the Commission estimates that the total burden hours associated with Form 71 filings amount to 6,096 annual burden hours along with associated labor costs totaling $713,232.

Form 71		
Regulation	**Estimated Total Annual Industry Cost**	**Anticipated Transmission Method**
17.01(c)	$713,232	Web

[34] The submission of Form 71 through the web-based portal does not require initial development expenditures; as a result, the burdens and costs for this form are calculated on an annual basis rather than an annualized basis. In addition, Form 71 does not require change or refresh updates.

D. Form 40

Form 40 Submissions Resulting from Form 102A (17 CFR 18.04(a)). The Commission assumes that each reporting party filing Form 40 as a result of Form 102A (i.e., special account owners and controllers) will complete and submit Form 40 online via a secure web-based portal provided by the Commission, which the Commission believes is the more cost-effective of the two filing methods for the industry as a whole.

As discussed in section VIII(A) of the 2013 OCR Final Rule Notice, the Commission expects approximately 3,000 Form 40 records filings per year arising from Form 102A filings. The Commission estimates that each of the 3,000 Form 40 records will require five hours to complete.[35] Assuming each such Form 40 record is provided via the web-based portal, the Commission estimates that the total annual industry burden for reporting on Form 40, as a result of Form 102A, will equal 15,000 hours. Using an estimated wage rate of $117 per hour, annual industry costs for Form 40 filings arising from special accounts are estimated at $1,755,000.

Form 40 Submissions Resulting from Form 102B and Form 71 (17 CFR 18.04(b)). The Commission also assumes that each reporting party filing Form 40 as a result of Form 102B and Form 71 (i.e., volume threshold account controllers, persons who own volume threshold accounts, reportable sub-account controllers, and persons who own reportable sub-accounts) will complete and submit Form 40 online via a secure web-based portal provided by the Commission.

The Commission anticipates that it will receive a maximum of approximately 13,409 DCM-related Form 40 filings annually and approximately 5,511 SEF-related Form 40 filings annually, in each case arising from Form 102B and Form 71, although the actual number will likely be significantly less.[36] Each such Form 40 filing is estimated to require five hours.[37] Assuming each such Form 40 record is provided via the web-based portal:

- The Commission estimates that the total annual industry burden for reporting on Form 40, as a result of Form 102B and Form 71, will equal 67,045 hours for DCM-related Form 40 filings. Using an estimated wage rate of $117 per hour, annual industry costs for such filings arising from volume threshold accounts and reportable sub-accounts are estimated at $7,844,265.

- The Commission estimates that the total annual industry burden for reporting on Form 40, as a result of Form 102B and Form 71, will equal 27,555 hours for SEF-related Form 40 filings. Using an estimated wage rate of $117 per hour, annual

[35] The Commission's estimate of five hours per response reflects an initial, one-time burden of 15 hours, annualized over a five-year period, plus an additional two hours per year for change updates.
[36] As with 102A records, the Commission estimates that in approximately 25 percent of filings, the owner and the controller of a volume threshold account reported on Form 102B will be the same, and that accordingly, only one Form 40 would be required. Similarly, a number of potential Form 40 reporting parties are likely to own or control both DCM-related and SEF-related volume threshold accounts, but only one Form 40 would be required.
[37] The Commission's estimate of five hours per response reflects an initial, one-time burden of 15 hours, annualized over a five-year period, plus an additional two hours per year for change updates.

industry costs for such filings arising from volume threshold accounts and reportable sub-accounts are estimated at $3,223,935.

Collectively, the Commission estimates that the total burden hours associated with Form 40 submissions, as a result of Form 102B and Form 71, amount to 94,600 annual burden hours along with associated labor costs totaling $11,068,200.

Form 40- Submissions Resulting from (a) Form 102A and (b) Form 102B and Form 71		
Regulation	**Estimated Total Annual Industry Cost**	**Anticipated Transmission Method**
18.04(a)	$1,755,000	web
18.04(b)	$11,068,200	web

E. Form 102S (17 CFR 20.5(a))

The Commission assumes that each Form 102S reporting party will submit Form 102S via secure FTP, which the Commission believes is the more cost-effective of the two filing methods for the industry as a whole. Each FTP submission will likely contain numerous 102S records. The Commission estimates that the total initial development burden will average 264 hours per reporting party. The Commission also estimates that the highly automated nature of this option will virtually eliminate the marginal costs associated with each additional submission or each additional record contained in a submission. The Commission believes that the timing requirements for 102S filings in § 20.5(a)(3),[38] or any new submission procedures arising from the Swaps Large Trader Guidebook (i.e., frequency of 102S filing submission), will not increase a reporting party's burden when using the FTP submission method. The Commission further estimates that the ongoing operation and maintenance burden will average 53 hours per year no matter how many records are contained in a submission. The total annualized initial development burden and the ongoing operation and maintenance burden (total yearly burden) will equal approximately 106 hours per reporting party.[39]

An assessment of Commission data collection efforts demonstrated that the Commission received Form 102S submissions from 77 reporting parties in 2019. The Commission anticipates that it will receive Form 102S submissions from a similar number of reporting parties each year. Furthermore, the Commission anticipates that it will receive approximately 2,600 102S records each year. Assuming 102S reporting parties utilize the FTP submission method, the Commission estimates that the total annual industry burden for 102S filing will equal 8,162 hours.[40] Using an

[38] 17 CFR 20.5(a)(3).
[39] All annualized development burden estimates are based on 5-year, straight line depreciation.
[40] Estimated 77 reporting parties multiplied by 106 burden hours per reporting party equals 8,162 total hours.

estimated wage rate of $117 per hour, annual industry costs for Form 102S are estimated at $954,954.

Form 102S		
Regulation	**Estimated Total Annual Industry Cost**	**Anticipated Transmission Method**
20.5(a)	$954,954	FTP

F. Form 40S (17 CFR 20.5(b))

The Commission assumes that each Form 40S reporting party will complete and submit its forms online via a secure web-based portal provided by the Commission, which the Commission believes is the more cost-effective of the two filing methods for the industry as a whole. As discussed in section VIII(A) of the OCR rules, the Commission anticipates that it will receive approximately 2,600 102S records per year, and the Commission estimates that it will make no more than the same number of 40S special calls each year (2,600), although the total number will likely be significantly less. Each response is estimated to require five hours,[41] resulting in an estimated maximum total annual reporting burden of 13,000 hours.[42] Using an estimated wage rate of $117 per hour, annual industry costs for Form 40S filings made via the web-based portal are estimated at $1,521,000.

Form 40S		
Regulation	**Estimated Total Annual Industry Cost**	**Anticipated Transmission Method**
20.5(b)	$1,521,000	web

Recordkeeping

A. Expanded Obligation to Maintain Books and Records and Furnish Information to the Commission Under § 18.05 (17 CFR 18.05)

Section 18.05 makes four categories of persons, identified through the volume-based reporting regime, subject to § 18.05: (1) volume threshold account controllers, (2) owners of volume threshold accounts, (3) reportable sub-account controllers, and (4) persons who own reportable sub-accounts. The Commission anticipates that persons subject to § 18.05 will likely

[41] The Commission's estimate of five hours per response reflects an initial, one-time burden of 15 hours, annualized over a five-year period, plus an additional two hours per year for change updates.
[42] A maximum of 2,600 forms multiplied by 5 hours equals 13,000 burden hours.

be able to rely on books and records already kept in the ordinary course of business to meet the requirements of the final regulation. This is due, in part, to the fact that § 18.05 requires traders to maintain fairly limited information regarding their trading activity. Section 18.05(a), for example, requires that: "Every trader who holds or controls a reportable futures or option position shall keep books and records showing all details concerning all positions and transactions in the commodity" on certain enumerated trading markets. Furthermore, the Commission assumes that some parties required to maintain books and records pursuant to current § 18.05 are likely required to maintain books and records under former § 18.05, because they hold or control reportable positions (i.e., there will be a certain amount of overlap between these two groups). Accordingly, the Commission believes that § 18.05 will not meaningfully increase recordkeeping burdens on persons brought under its scope.

The Commission estimates that it will send a maximum of 100 special calls related to § 18.05. The Commission estimates that each special call response submitted by the categories of persons subject to § 18.05 will take approximately 5 hours, for a total annual reporting burden of 500 hours. Using an estimated wage rate of $117 per hour, annual reporting costs for the new categories of persons that are subject to § 18.05 are estimated at $58,500.

§ 18.05 Recordkeeping Burden	
Regulation	**Estimated Total Annual Industry Cost**
18.05	$58,500

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 has accounted for all ongoing operational costs as described in its response to Question 12 above. There are no additional capital costs or operating and maintenance costs associated with this collection.

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 total annualized initial and ongoing cost to the federal government of the OCR rules will equal approximately $454,955. This figure represents ongoing costs for software development contractors and equipment maintenance.

The Commission estimates that software development contractors will expend approximately 3,333 hours each year to maintain and support data collected pursuant to the OCR rules. Based upon an approximate average hourly rate of $135, the Commission estimates that annual ongoing costs of software development contractors will be approximately $449,955. In addition, the Commission estimates that it will spend approximately $5,000 per year on maintenance of servers and data storage equipment. The total annual ongoing cost to the federal government is estimated to be $454,955.[43]

15. Explain the reasons for any program changes or adjustments.

There are no program changes. The Commission is updating its burden hour estimates as described in Attachment A.

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. There is no plan to publsh any of the information collected 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.

[43] The $454,955 figure is arrived at by adding $449,955 (software development contractors) and $5,000 (maintenance of servers and data storage equipment).

This question does not apply.

18. Explain each exception to the certification statement identified the "Certification for Paperwork Reduction Act Submissions."

This question does not apply. The Commission is not seeking any exceptions to the required certification.

Attachment A

Annual Reporting and Recordkeeping Hour Burden

OMB Collection File 3038-0103

1.	2.	3.	4.	6.	7.	8.	9.
Applicable CFTC Regulation Section (17 CFR)	**Associated Form**	**Type of Respondent**	**Total Number of Respondents (13(a))**	**Estimated Average Burden Hour Cost**	**Total Annual Responses (13(b))**	**Total Annual Hours Requested (13(c))[44]**	**Total Annual Burden Costs (6×8)**
Reporting							
17.01(a)	Form 102A	FCMs, clearing members, and foreign brokers	312	$117	103,430	33,072[45]	$3,869,424
17.01(b)	Form 102B	Clearing members	114	$117	529,000	18,550	$2,170,350
17.01(c)	Form 71	Originators of omnibus volume threshold accounts or omnibus reportable sub-accounts	762[46]	$117	762[47]	6,096	$713,232
18.04(a)	Form 40	Special account owners and controllers	300	$117	3,000	15,000	$1,755,000
18.04(b)	Form 40	Volume threshold account controllers, persons who own volume threshold accounts, reportable sub-account controllers, and persons who own reportable sub-accounts.	114	$117	18,920[48]	94,600	$11,068,200

[44] Represents the hours required in connection with the most cost-efficient submission method for each form, as determined by the Commission.
[45] 312 respondents × 106 hours per respondent = 33,072.
[46] The Commission estimates that a number of Form 71 respondents will complete the form more than once because they originate more than one omnibus volume threshold account or omnibus reportable sub-account. However, at this time, the Commission does not possess information that would allow it to determine the frequency of such occurrence. As a result, the Commission has described the upper limit of potential respondents by assuming that each Form 71 response will be provided by a different respondent.
[47] The Commission estimates that there will be 198 SEF-related, and 564 DCM-related, Form 71 filings per year.
[48] The Commission estimates that there will be 5,511 SEF-related, and 13,409 DCM-related, Form 40 filings (arising from Form 102B and Form 71 filings) per year.

1.	2.	3.	4.	6.	7.	8.	9.
Applicable CFTC Regulation Section (17 CFR)	**Associated Form**	**Type of Respondent**	**Total Number of Respondents (13(a))**	**Estimated Average Burden Hour Cost**	**Total Annual Responses (13(b))**	**Total Annual Hours Requested (13(c))**	**Total Annual Burden Costs (6×8)**
20.5(a)	102S Filing	Clearing members and swap dealers	77	$117	2,600	8,162[49]	$954,954
20.5(b)	40S Filing	Clearing members and swap dealers	77	$117	2,600	13,000[50]	$1,521,000
Reporting Subtotal						**188,480**	**$22,052,160**
Recordkeeping							
18.05	Books and Records	Volume threshold account controllers, persons who own volume threshold accounts, reportable sub-account controllers, persons who own reportable sub-accounts, and traders who own, hold, or control reportable futures or option positions	100	$117	100	500	$1,521,000
Total			**1,779[51]**		**660,412**	**188,980**	**$23,573,160**

[49] 77 reporting parties × 106 burden hours per reporting party = 8,162.
[50] 2,600 responses × 5 hours per response = 13,000.
[51] To avoid double-counting, this figure treats the 102S respondents as the same clearing members and swap dealers filing 40S Forms. Therefore, the total number of 102S and 40S respondents is 77, and not 154.