



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Comment Request – Notice of Intent to Amend Collection 3038-0079: Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is announcing an opportunity for public comment on a proposed amendment to the collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comment on an amendment to the collection of information under OMB Control No. 3038-0079 (Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants).

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by “OMB Control No. 3038-0079; Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants,” by any of the following methods:

- The Commission’s web site, via its Comments Online process at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the web site.

- Mail: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

- Hand Delivery/Courier: Same as Mail above.

- Federal eRulemaking Portal: <http://www.regulations.gov/search/index.jsp>.

Follow the instructions for submitting comments through the Portal.

- Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Katherine Driscoll, Associate Chief Counsel, (202) 418-5544, kdriscoll@cftc.gov; or Adam Kezsbom, Special Counsel, (202) 418-5372, akezsbom@cftc.gov, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide

a 60-day notice in the Federal Register concerning each proposed collection of information, including each proposed amendment to an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed amendment to the collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants (OMB Control No. 3038-0079). This is a request for an amendment to a currently approved information collection.

Abstract: In 2012, the Commission promulgated Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties (External Business Conduct Standards Final Rulemaking)¹ which include all of Subpart H of Part 23 of the Commission’s regulations (EBCS Rules).² In the External Business Conduct Standards Final Rulemaking, the Commission stated that the information collections associated with the EBCS Rules were part of the overall supervision, compliance and recordkeeping requirements imposed by the Commission in certain other rulemakings including, among others, the collection of information for rules on Conflicts of Interest Policies and

¹ Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties, 77 FR 9734, Feb. 17, 2012.

² Subpart H of Part 23 is titled “Business Conduct Standards for Swap Dealers and Major Swap Participants Dealing with Counterparties, Including Special Entities.” Subpart H includes the following provisions: § 23.400 (Scope); § 23.402 (Definitions); § 23.402 (General Provisions); § 23.410 (Prohibition on fraud, manipulation and other abusive practices); § 23.430 (Verification of counterparty eligibility); § 23.431 (Disclosures of material information); § 23.432 (Clearing disclosures); § 23.433 (Communications – fair dealing); § 23.434 (Recommendations to counterparties—institutional suitability); § 23.440 (Requirements for swap dealers acting as advisors to Special Entities); § 23.450 (Requirements for swap dealers and major swap participants acting counterparties to Special Entities); and § 23.451 (Political contributions by certain swap dealers).

Procedures by Swap Dealers and Major Swap Participants under §23.605 under OMB Collection No. 3038-79. While the collections associated with the EBCS Rules do overlap with the requirements in certain other Commission regulations, the OMB collections associated with those other Commission regulations do not accurately reflect the burdens imposed by the EBCS Rules.

The Commission is proposing to amend the information collection under OMB Control No. 3038-0079 to clearly reflect the paperwork burden imposed by the EBCS Rules under §§ 23.401-450 and ensure that the paperwork burden of the EBCS Rules is centrally located under OMB Control No. 3038-0079. In addition, the Commission will be retitling the collection under OMB Control No. 3038-0079 “Swap Dealer and Major Swap Participant Conflicts of Interest and Business Conduct Standards with Counterparties” to more accurately reflect its coverage. The collections of information contained in the EBCS rules are necessary to implement requirements set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act³ and for the protection of investors and market participants.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed revision to the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission’s estimate of the burden of the proposed revision to the collection of information, including the validity of the methodology and assumptions used;

³ See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at http://www.cftc.gov/ucm/groups/public/@swaps/documents/file/hr4173_enrolledbill.pdf.

- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in Regulation 145.9.⁴

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The respondent burden for this collection is detailed below and includes the burden currently associated with OMB Collection No. 3038-0079 in

⁴ 17 CFR 145.9.

connection with § 23.605 (Conflicts of Interest Policies and Procedures for Swap Dealers and Major Swap Participants) and the EBCS Rules.

The Commission estimates the burden of this collection of information as follows:

Respondents/Affected Entities: Swap Dealers and Major Swap Participants.

Estimated number of respondents: 102.

Estimated average burden hours per respondent: 2,352.9 hours.

Estimated total annual burden on respondents: 240,000 hours.

Frequency of collection: Ongoing.

(Authority: 44 U.S.C. 3501 et seq.)

Dated: June 14, 2017.

Robert N. Sidman,

Deputy Secretary of the Commission.

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