



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB within 30 days of this notice's publication by either of the following methods. Please identify the comments by "OMB Control No. 3038-0085."

- By email addressed to: *OIRAsubmissions@omb.eop.gov* or
- By mail addressed to: the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street, NW., Washington DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (Commission) by either of the following methods. The copies should refer to "OMB Control No. 3038-0085."

- By mail addressed to: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581;
- By Hand Delivery/Courier to the same address; or
- Through the Commission's website at <http://comments.cftc.gov>. Please follow the instructions for submitting comments through the website.

A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <http://RegInfo.gov>.

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 § 145.9 of the Commission's regulations.¹ 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 ICR 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.

¹ 17 CFR 145.9.

FOR FURTHER INFORMATION CONTACT: Melissa D’Arcy, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418-5086; email: mdarcy@cftc.gov, and refer to OMB Control No. 3038-0085.

SUPPLEMENTARY INFORMATION:

Title: Rule 50.50 End-User Notification of Non-Cleared Swap (OMB Control No. 3038-0085). This is a request for an extension and revision of a currently approved information collection.

Abstract: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended Section 2(h)(1) of the Commodity Exchange Act (CEA) to provide that it shall be unlawful for any person to engage in a swap unless that person submits such swap for clearing to a derivatives clearing organization if the swap is required to be cleared. However, Section 2(h)(7) of the CEA, as added by the Dodd-Frank Act, also provides that a swap otherwise subject to the clearing requirement is eligible for an elective exception from clearing if one party to the swap is not a financial entity, is using swaps to hedge or mitigate commercial risk, and notifies the Commission, in a manner set forth by the Commission, how it generally meets its financial obligations associated with entering into non-cleared swaps (End-User Exception).

The Commission adopted Commission regulation 39.6 to specify requirements for electing the End-User Exception, including the reporting of certain information to a registered swap data repository (SDR) or the Commission. Following the publication of Commission regulation 39.6, the Commission recodified it as Commission regulation 50.50 (17 CFR 50.50). The information reported and collected under Commission regulation 50.50 is necessary as part of the overall package of swap-related information that must generally be submitted by reporting

counterparties to SDRs under the Dodd-Frank Act. The Commission uses this information to assess and monitor the market participants electing the End-User Exception to the swap clearing requirement in order to prevent evasion of the clearing requirement.

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. On August 13, 2018, the Commission published in the Federal Register notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 83 FR 39991 (60-Day Notice). The Commission received one comment on the 60-Day Notice.

In a comment letter submitted in response to the 60-Day Notice, the American Bankers Association (ABA) urged the Commission to amend Commission regulation 50.50 with respect to the frequency of the reporting requirement.² Currently, end-users electing the exception are required to report information to the Commission annually, if not more frequently. The ABA requested that the Commission issue a notice of proposed rulemaking to consider revising the reporting requirement in Commission regulation 50.50(b)(2) to permit end-users to report this information less frequently than annually, in certain cases. The ABA's request for an amendment to the rule text in Commission regulation 50.50 is outside the scope of the request for an extension of the subject collection. The ABA did not submit any comments to the Commission related to the burdens associated with this information collection, such as the estimated number of respondents or the estimated average burden hours per respondent. Accordingly, the Commission continues to believe that the burden estimates published in the 60-Day Notice are appropriate.

²ABA's comment letter submitted in response to the 60-Day Notice, Oct. 12, 2018, available at: [https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=61830&SearchText=.](https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=61830&SearchText=)

Burden Statement: The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 1,815.

Estimated Average Burden Hours Per Respondent: 0.58.

Estimated Total Annual Burden Hours: 1,053.³

Frequency of Collection: On occasion; annually.

There are no capital costs or operating and maintenance costs associated with this collection.

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

Dated: October 24, 2018.

Robert Sidman,

Deputy Secretary of the Commission.

³1815 x . 58 hr = 1052.7, and when rounded up to the next whole number equals 1053 (the estimated total annual burden hours).

[FR Doc. 2018-23539 Filed: 10/26/2018 8:45 am; Publication Date: 10/29/2018]