



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 burdens.

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 publication of this notice by either of the methods specified below. Please identify the comments by “OMB Control Numbers 3038-0088.”

- By email addressed to: *OIRAsubmissions@omb.eop.gov*; or
- By mail addressed to: 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 any of the following methods. The copies should refer to “OMB Control Numbers 3038-0088.”

- 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.

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>. 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

¹ 17 CFR 145.9.

Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

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

FOR FURTHER INFORMATION CONTACT: Jacob Chachkin, Special Counsel, (202) 418-5496, jchachkin@cftc.gov, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581, and refer to OMB Control Numbers 3038-0088.

SUPPLEMENTARY INFORMATION:

Titles: Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants (OMB control number 3038-0088). This is a request for revision of this currently approved information collection.

Abstract: Pursuant to the authority granted to it by Section 731 of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act, Pub L. No. 111-203, 124 Stat. 1376 (2010)), the Commission promulgated regulation 23.504, among others. This regulation obligates swap dealers (“SDs”) and major swap participants (“MSPs”) to develop and retain written swap trading relationship documentation, which is essential to ensuring that SDs and MSPs document their swaps. The ICRs for this regulation are included under OMB control number 3038-0088.

The United Kingdom (“UK”) has provided formal notice of its intention to withdraw from the European Union (“EU”). This withdrawal may happen as soon as April 12, 2019 and may transpire without a negotiated agreement between the UK and

EU (No-deal Brexit). To the extent this event occurs, affected SDs and MSPs may be involved in transfers of certain uncleared swaps, including uncleared swaps that were entered into before the relevant compliance dates under the CFTC Margin Rule² or the Prudential Margin Rule and that, therefore, may not be subject to such rules, in whole or in part.

The Commission is adopting an interim final rule (“Final Rule”) amending the CFTC Margin Rule such that the date used for purposes of determining whether an uncleared swap was entered into prior to an applicable compliance date will not change under the CFTC Margin Rule if the swap is transferred, and thereby amended, in accordance with the terms of the Final Rule in respect of any such transfer. In doing so, the Final Rule, subject to its requirements, allows an uncleared swap to retain its legacy status when transferred in connection with a No-deal Brexit. As a condition to the relief in the Final Rule, in certain cases, the Commission requires that the transferor of a legacy swap make certain representations to the SD or MSP that is a party to the swap in the swap trading relationship documentation relating to such transfer. The Commission proposes to revise the burden of OMB control number 3038-0088 to reflect this requirement.

Burden Statement: As a condition to the relief in the Final Rule, in certain cases, the Commission requires that the transferor of a legacy swap make certain representations to the SD or MSP that is a party to the swap in the swap trading relationship

² Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016) (“CFTC Margin Rule”). The CFTC Margin Rule, which became effective April 1, 2016, is codified in part 23 of the Commission’s regulations. 17 CFR 23.150 - 23.159, 23.161. The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Farm Credit Administration, and the Federal Housing Finance Agency published final margin requirements in November 2015. *See* Margin and Capital Requirements for Covered Swap Entities, 80 FR 74840 (Nov. 30, 2015) (“Prudential Margin Rule”).

documentation relating to such transfer. The Commission is revising the burden of this OMB number to reflect the inclusion of this requirement in the Final Rule. Specifically, the Commission estimates that this requirement will increase the burden under OMB control number 3038-0088 as follows:

Respondents/Affected Entities: SDs and MSPs and their counterparties.

Estimated number of respondents: 52.

Estimated total annual burden on respondents: 1,404 hours.

Frequency of collection: Periodically.

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

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

Dated: March 26, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

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