



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Revise Collection 3038-0089, Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“CFTC”) is announcing an opportunity for public comment on the proposed renewal of an information collection by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information and to allow 60 days for public comment. This notice solicits comments on the swap data recordkeeping and reporting requirements codified in 17 CFR 46. This part imposes recordkeeping and reporting requirements on the following entities: Swap Dealers (“SDs”), Major Swap Participants (“MSPs”), and swap counterparties that are neither swap dealers nor major swap participants (“non-SD/MSP counterparties”).

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 “Renewal of Collection Pertaining to Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps,” and 3038-0089, by any of the following methods:

- The Agency’s web site, 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.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Meghan Tente, Division of Market Oversight, Commodity Futures Trading Commission, 1155 21st Street NW, (202) 418-5785, email: mtente@cftc.gov, and refer to OMB Control No. 3038-0089.

SUPPLEMENTARY INFORMATION: Under the PRA, , 44 U.S.C. 3501 *et seq.*, 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 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.

Title: Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps (OMB Control No. 3038-0089). This is a request for extension of a currently approved information collection.

Abstract: The collection of information is needed to ensure that the CFTC and other regulators have access to data regarding pre-enactment and transition swaps, as required by the Commodity Exchange Act as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). The Dodd-Frank Act directed the CFTC to adopt rules providing for the reporting of data relating to swaps entered into before the date of enactment of the Dodd-Frank Act, the terms of which had not expired as of the date of enactment of the Dodd-Frank Act (“pre-enactment swaps”) and data relating to swaps entered into on or after the date of enactment of the Dodd-Frank Act and prior to the compliance date specified in the the CFTC’s final swap data reporting rules (“transition swaps”). On June 12, 2012, the CFTC adopted regulation 46, which imposes recordkeeping and reporting requirements relating to pre-enactment and historical swaps.

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

- Whether the proposed collection of information is necessary for the proper performance of the functions of the CFTC, including whether the information will have a practical use;
- The accuracy of the CFTC’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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 CFTC 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 CFTC's regulations.¹

The CFTC 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: Provisions of CFTC Regulations 46.2, 46.3, 46.4, 46.8, 46.10, and 46.11 result in information collection requirements within the meaning of the PRA. With respect to the ongoing reporting and recordkeeping burdens associated with pre-enactment and transition swaps, the CFTC believes that SDs, MSPs, and non-SD/MSP counterparties incur an annual time-burden of 17,328 hours. This time-burden represents a proportion of the burden respondents incur to operate and maintain their swap data recordkeeping and reporting systems.

¹ 17 CFR 145.9.

17 CFR 45 imposes swap recordkeeping and reporting requirements on respondents related to swaps that are not pre-enactment or transition swaps. The CFTC believes that respondents use the same recordkeeping and reporting systems to comply with both parts 45 and 46. The CFTC has computed the estimated burden for 17 CFR 46 by estimating the burden incurred by respondents to operate and maintain their swap data recordkeeping and reporting systems and then estimating the percentage of that burden associated with pre-enactment and transition swaps. Since the enactment of 17 CFR 45, the vast majority of pre-enactment and transition swaps have been terminated by the parties to the swaps or are otherwise no longer in existence. As 17 CFR 46 only requires respondents to make ongoing reports regarding pre-enactment and transition swaps that continue to be in existence, the number of reports being made pursuant to 17 CFR 46 has declined significantly over time. As the volume of reports made pursuant to 17 CFR 46 is estimated to be very small relative to the estimated volume of reports made pursuant to 17 CFR 45, the Commission's burden estimate has allocated the vast majority of the estimated burden to operate and maintain respondents' swap data recordkeeping and reporting systems to the burden estimate associated with 17 CFR 45.

Respondents/Affected Entities: Swap Dealers, Major Swap Participants, and other counterparties to a swap transaction (*i.e.*, end-user, non-SD/non-MSP counterparties).

Estimated number of respondents: 30,125.

Estimated total annual burden on respondents: 17,328 hours.

Frequency of collection: Ongoing.

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

Dated: April 9, 2019

Robert Sidman,

Deputy Secretary of the Commission.

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