



## 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:** Written comments regarding the burden estimated or any other aspect of the information collection should be submitted within 30 days of this notice's publication to OIRA, at <https://www.reginfo.gov/public/do/PRAMain>. Please find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the website's search function. Comments can be entered electronically by clicking on the "comment" button next to the information collection on the "OIRA Information Collections Under Review" page, or the "View ICR – Agency Submission" page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <https://www.reginfo.gov/public/do/PRAMain>.

In addition to the submission of comments to <https://Reginfo.gov> as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the “Commission” or “CFTC”) by clicking on the “Submit Comment” box next to the descriptive entry for OMB Control No. 3038-0023 and 3038-0072, at <https://comments.cftc.gov/FederalRegister/PublicInfo.aspx> Or by either of the following methods:

- *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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include 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.<sup>1</sup> 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 <https://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

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<sup>1</sup> 17 CFR 145.9.

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

**FOR FURTHER INFORMATION CONTACT:** Joshua Sterling, Director, (202) 418-6700, [jsterling@cftc.gov](mailto:jsterling@cftc.gov); Amanda Olear, Deputy Director, (202)418-5283, [aolear@cftc.gov](mailto:aolear@cftc.gov); or Christopher W. Cummings, Special Counsel, (202) 418-5445, [ccummings@cftc.gov](mailto:ccummings@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 3038-0023 and 3038-0072.

**SUPPLEMENTARY INFORMATION:**

*Titles:* Registration Under the Commodity Exchange Act (OMB control number 3038-0023); Registration of Swap Dealers and Major Swap Participants (OMB control number 3038-0072). This is a request for extension and revision of these currently approved information collections.

*Abstract:* In *Adoption of Revised Registration Form 8-R*, 85 FR 37880 (June 24, 2020), the Commission published a revised version of Commission Form 8-R. The Form 8-R is the application form that individuals must use to register with the Commission as an associated person, floor broker, floor trader, floor trader order enterer, or to be listed as a principal of a registrant. Separately, in *Agency Information Collection Activities: Notice of Intent to Extend and Revise Collections, Comment Request: Adoption of Revised Registration Form 8-R*, 85 FR 37922 (June. 24, 2020) (“60-Day Notice”), the Commission addressed the PRA implications of the revisions to Form 8-R. As indicated above, Form 8-R is covered by two OMB control numbers. OMB control number 3038-0023 applies to Form 8-R in connection with registering as a floor broker or as a floor

trader, or registering as an associated person of, or being listed as a principal of, a futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, floor trader firm or leverage transaction merchant.<sup>2</sup> OMB control number 3038-0072 applies to Form 8-R in connection with applying to be listed as a principal of a swap dealer or major swap participant.<sup>3</sup>

#### I. *Revision of Commission Form 8-R*

The revised Form 8-R contains several changes that increase the existing information collection burden (currently 1 hour) associated with Form 8-R. The Commission estimates that the changes, which are discussed below, when considered together in aggregate add a total of 0.1 burden hours to the information collection burdens associated with Form 8-R.

First, in the “Completing the Proficiency Requirements Section,” a new paragraph is added describing the obligation of an individual seeking approval as a swap associated person or as a sole-proprietor swap firm to satisfy the Swaps Proficiency Requirements (recently implemented by NFA with the Commission’s approval<sup>4</sup>), and what constitutes satisfaction of those requirements. Second, in the application itself, a new question is added asking whether the applicant has completed the Swaps Proficiency Requirements within the past two years.

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<sup>2</sup> OMB control number 3038-0023 also covers Commission Forms 7-R, 7-W and 8-T in connection with various registration activities involving floor brokers, floor traders, futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms or leverage transaction merchants, and their principals and associated persons, as applicable. Forms 7-R, 7-W and 8-T were not amended in connection with the revision of Form 8-R.

<sup>3</sup> OMB control number 3038-0072 also covers Commission Forms 7-R, 7-W and 8-T in connection with various registration activities involving swap dealers and major swap participants, and principals thereof. Forms 7-R, 7-W and 8-T were not amended in connection with the revision of Form 8-R.

<sup>4</sup> See, NFA Interpretive Notice entitled “NFA Bylaw 301 And Compliance Rule 2-24: Proficiency Requirements for Swap APs,” effective January 31, 2020.

The revised Form 8-R also contains several changes that do not alter the information collection burdens associated with Form 8-R. First, the revised form replaces the FBI-mandated disclosure, for persons whose fingerprints are taken for purposes other than criminal justice, with an updated version of that disclosure. Second, in the “Definition of Terms” section, the definition of “adversary action” is revised to conform the definition to the way the term is used in the form’s “Disciplinary Information Section.” Finally, the words “entity” and “person” are underlined where they occur in the text to indicate that these are terms that are defined in the “Definition of Terms” section.

## II. *Comments*

In the 60-Day Notice, the Commission provided 60 days for public comment on the extension and revision of the currently approved information collections under OMB control numbers 3038-0023 and 3038-0072 including, among other things, its estimates regarding the modified information collection burdens associated with the amendments to Form 8-R. The Commission did not receive any comments that addressed any of its estimates or any other aspect of the information collection.

*Burden Statement:* As explained above, the Commission believes that the revisions to Form 8-R will increase the information collection burdens associated with that Form under OMB control numbers 3038-0023 and 3038-0072.

- **OMB control number 3038-0023**

The Commission estimates the burden of this collection of information under OMB control number 3038-0023 to be:

*Respondents/Affected Entities:* Users of Form 8-R, specifically (i) associated persons of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, and leverage transaction merchants; floor brokers; (ii) principals of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms, or leverage transaction merchants; (iii) floor brokers; (iv) floor traders; and (v) floor trader order enterers.

*Estimated number of respondents:* 78,055.

*Estimated total annual burden on respondents:* 7,856 hours.

*Frequency of collection:* Periodically.

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

- **OMB control number 3038-0072**

The Commission further estimates that as a result of the revisions to Form 8-R, the burden of the collection of information under OMB control number 3038-0072 will be:

*Respondents/Affected Entities:* (1) users of Form 8-R, specifically swap dealers and major swap participants; and (2) users of Form 8-R, specifically principals of swap dealers and of major swap participants

*Estimated number of respondents:* 772.

*Estimated total annual burden on respondents:* 683 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: September 21, 2020.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

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