



## 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 Information and Regulatory Affairs (“OIRA”), of 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:** Written comments and recommendations for the proposed 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. 3038-0070, 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 under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Meghan Tente, Division of Data, Commodity Futures Trading Commission, (202) 418-5785, email: [mtente@cftc.gov](mailto:mtente@cftc.gov), and refer to OMB Control No. 3038-0070.

**SUPPLEMENTARY INFORMATION:**

*Title:* Real Time Public Reporting and Block Trades (OMB Control No. 3038-0070).

This is a request for comment on revision of a currently approved information collection.

*Abstract:* The collection of information is needed to ensure that swap data repositories publicly disseminate swap data as required by the Commodity Exchange Act, as amended by the

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

Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).<sup>2</sup> The Dodd-Frank Act directed the CFTC to adopt rules providing for the real-time public reporting and dissemination of swap data and rules for block trades.

On September 17, 2020, the Commission adopted a rulemaking amending its part 43 regulations.<sup>3</sup> In the release accompanying the Final Rule, the Commission included some cost and burden estimates that were not included in the Proposal, including changes to some of its previous estimates.<sup>4</sup> The Commission explains these cost and burden estimates further 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. On December 2, 2020, the Commission published in the Federal Register notice of the proposed revision of this information collection (including estimated costs related to the modification or maintenance of systems in order to be in compliance with the amendments to § 43.3 that were adopted in the Final Rule), and provided 60 days for public comment on the proposed revision, 85 FR 77437 (“60-Day Notice”). The Commission did not receive any comments on the 60-Day Notice.

#### 1. Amendments to Regulation 43.3

In the Proposal, the Commission omitted the aggregate reporting burden for proposed § 43.3 (as well as § 43.4) and instead provided PRA estimates for all of part 43. The Final Rule included the estimated aggregate reporting burden for § 43.3 as follows:

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<sup>2</sup> Public Law 111-203, 124 Stat. 1376 (2010).

<sup>3</sup> The Commission proposed the amendments to part 43 in February 2020. Real-Time Public Reporting Requirements, 85 FR 21516 (Apr. 17, 2020) (the “Proposal”). The final rule was published in the Federal Register, 85 FR 75422 (Nov. 25, 2020) (the “Final Rule”).

<sup>4</sup> In the Final Rule, the Commission revised the information collection to reflect the adoption of amendments to part 43, including changes to reflect adjustments that were made to the Final Rule in response to comments on the Proposal (not relating to PRA). In the Proposal, the Commission omitted the aggregate reporting burden for proposed § 43.3 and § 43.4 in the preamble and instead provided PRA estimates for all of part 43. In the Final Rule, the Commission included PRA estimates for final § 43.3 and § 43.4 which are set forth below. In addition, in the Final Rule, the Commission revised the information collection to include burden estimates for one-time costs that SDRs, SEFs, DCMs, and reporting counterparties could incur to modify their systems to adopt the changes to part 43, as well as burden estimates for these entities to perform any annual maintenance or adjustments to reporting systems related to the changes. These estimates are also set forth below. The Commission did not include PRA estimates for all of part 43 in the Final Rule preamble as the Final Rule only affects PRA estimates for § 43.3 and § 43.4. However, PRA estimates for all of part 43 were included in the supporting statement being filed with OMB in connection with the Final Rule (excluding estimates related to the Commission’s block trade regulation, as the block trade regulation is not affected by the final rulemaking).

*Estimated Number of Respondents:* 1,729 SEFs, DCMs, and reporting counterparties.

*Estimated Number of Reports per Respondent:* 2,998.

*Average Number of Hours per Report:* 0.067.

*Estimated Gross Annual Reporting Burden:* 725,696.

Existing § 43.3 requires reporting counterparties to send swap reports to swap data repositories (“SDRs”) as soon as technologically practicable after execution. The Commission did not include any burden estimates in the Proposal related to the modification or maintenance of systems in order to be in compliance with the proposed amendments to § 43.3.<sup>5</sup> However, for the Final Rule, the Commission recognized certain entities would incur start-up costs to modify their reporting systems and operational costs to maintain them going forward to adopt the changes to § 43.3<sup>6</sup> in the Final Rule, as explained below.

In the Final Rule, the Commission estimated the cost for a reporting entity, including designated contracts markets (“DCMs”), derivatives clearing organizations (“DCOs”), major swap participants (“MSPs”), swap dealers (“SDs”), non-SD/MSP/DCO counterparties, and swap execution facilities (“SEFs”), to modify their systems and maintain those modifications going forward to adopt the Final Rule could range from \$24,000 to \$74,000 per entity. There are an estimated 1,732 reporting entities, for a total estimated cost of \$84,868,000.<sup>7</sup> As described in the Final Rule, the estimated cost range is based on a number of assumptions that cover tasks required to design, test, and implement an updated data system based on the new swap data elements contained in part 43.

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<sup>5</sup> The supporting statement for part 43 submitted for the Proposal only showed negative incremental changes in Attachment A (e.g., showed a negative adjustment of 30,300 responses and negative 2,030.10 burden hours).

<sup>6</sup> The Commission did not include any burden estimates in the Final Rule related to the modification or maintenance of systems in order to be in compliance with the amendments to § 43.4. To avoid double-counting, the Commission included the costs associated with updates to § 43.4 in the estimates for § 43.3, as they would be captured in the costs of updating systems based on the list of swap data elements in part 43.

<sup>7</sup> Based on the Commission’s eight years of experience in administering the existing-real time reporting regulation, the Commission believes that the costs to reporting entities to implement the Final Rule will be on the lower end of the range, closer to \$24,000 than to \$74,000.

In the Final Rule, the Commission further estimated that the cost for an SDR to modify their systems, including their data reporting, ingestion, and validation systems, and maintain those modifications going forward may range from \$144,000 to \$510,000 per SDR. There are currently three SDRs, for an estimated total cost of \$981,000.<sup>8</sup>

## 2. Amendments to Regulation 43.4

In the Final Rule, the Commission estimated that the amendments would reduce the number of mirror swaps SDRs would need to publicly disseminate by 100 reports per each SDR, for an aggregate burden hour reduction of 20.10 hours. In addition, the Commission estimated that the aggregate reporting burden total for § 43.4, as adjusted for the reduction in reporting by SDRs of mirror swaps, is as follows:

*Estimated Number of Respondents:* 3.

*Estimated Number of Reports per Respondent:* 1,499,900.

*Average Number of Hours per Report:* 0.009.

*Estimated Gross Annual Reporting Burden:* 40,497.

The Commission did not include any burden estimates in the Proposal related to the modification or maintenance of systems in order to be in compliance with the proposed amendments to § 43.4. To avoid double-counting, the Commission included the costs associated with updates to § 43.4 in the estimates for § 43.3 discussed above, as they would be captured in the costs of updating systems based on the list of swap data elements in part 43.

*Burden Statement:* Provisions of CFTC Regulations 43.3, 43.4, and 43.6 result in information collection requirements within the meaning of the PRA. With respect to the ongoing reporting and recordkeeping burdens associated with swaps, the CFTC is revising its estimate of the burden of this collection (excluding estimates related to the Commission's block trade regulation, which is not affected by the final rulemaking). The Commission believes that SDs,

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<sup>8</sup> As described in the Final Rule, the estimated cost ranges are based on a number of assumptions that cover the set of tasks required for the SDR to design, test, and implement an updated data system based on the new swap data elements contained in part 43.

MSPs, SEFs, DCMs, DCOs, and non-SD/MSP/DCO counterparties incur an annual time-burden of 771,831 hours. This time-burden represents a proportion of the burden respondents incur to operate and maintain their swap data recordkeeping and reporting systems. The respondent burden for this collection (excluding estimates related to the Commission's block trade regulation) is estimated to be as follows:

*Respondents/Affected Entities:* SDs, MSPs, and other counterparties to a swap transaction (*i.e.*, non-SD/MSP/DCO counterparties).

*Estimated Number of Respondents:* 1,732.

*Estimated Average Burden Hours per Respondent:* 445.

*Estimated Total Annual Burden Hours:* 771,831 hours.

*Frequency of Collection:* Ongoing.

*Capital or Operating and Maintenance Costs:* \$ 85,849,000.<sup>9</sup>

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

Dated: March 2, 2021.

Robert Sidman,

*Deputy Secretary of the Commission.*

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<sup>9</sup> In the Proposal, the Commission omitted the aggregate reporting burden for proposed § 43.3 and § 43.4 in the preamble and instead provided PRA estimates for all of part 43 (excluding estimates related to the Commission's block trade regulation, which is not affected by the final rulemaking). In the Final Rule, the Commission included PRA estimates for final § 43.3 and § 43.4 in the preamble because these are the only sections of part 43 affected by the final rulemaking. Attachment A to the supporting statement for the Proposal only showed the changes in the burden estimates for § 43.3 and § 43.4 for the Proposal. For the Final Rule, the Commission revised Attachment A to the supporting statement that was filed with OMB to include aggregate burden estimates for all requirements in the collection (excluding estimates related to the Commission's block trade regulation, as the burden estimates for the block trade regulation are not affected by the final rulemaking). In addition, in the Final Rule, the Commission revised the information collection to include burden estimates for one-time costs that SDRs, SEFs, DCMs, and reporting counterparties could incur to modify their systems to adopt the changes to part 43, as well as burden estimates for these entities to perform any annual maintenance or adjustments to reporting systems related to the changes. The estimates in the supporting statements for the Final Rule are consistent with the estimates shown in the Burden Statement above (e.g., the supporting statement for the Final Rule reflects that there are 1,732 respondents and that the total annual number of burden hours across all respondents is 771,831.)

