



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 THE 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. 3038–0093, 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 section 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 <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: Maura Dundon, Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, 202-418-5286, email: mdundon@cftc.gov.

SUPPLEMENTARY INFORMATION:

¹ 17 CFR 145.9.

Title: Part 40, Provisions Common To Registered Entities (OMB Control No. 3038–0093). This is a request for extension of a currently approved information collection.

Abstract: This collection of information involves the collection and submission to the Commission of information from registered entities concerning new products, rules, and rule amendments pursuant to the procedures outlined in §§ 40.2, 40.3, 40.5, 40.6, and 40.10 found in 17 CFR part 40. Part 40 of the Commission’s regulations implements section 5c(c) of the CEA and sets forth provisions that are common to registered entities, including designated contract markets (“DCMs”), derivatives clearing organizations (“DCOs”), swap execution facilities (“SEFs”) and swap data repositories (“SDRs”). Part 40 establishes requirements and procedures for registered entities to submit information about their rules and products to the Commission prior to implementing rules, listing products for trading, or accepting products for clearing. Part 40 generally provides two means for registered entities to submit rules and products to the Commission. Typically, a registered entity elects to certify that their product (§ 40.2) or rule (§ 40.6) complies with the CEA and the Commission regulations. This process is known as self-certification. Alternatively, a registered entity may seek Commission approval of the product (§ 40.3) or rule (§ 40.5).² The regulations also include special certification provisions (§ 40.10) for certain rules submitted by systemically important DCOs (“SIDCOs”).

On October 3, 2023, 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, 88 FR 68112 (“60-Day Notice”). The Commission

² Commission regulations may expressly or impliedly trigger the requirement for a registered entity to make a submission pursuant to part 40. For example, the Commission’s part 150 regulation on position limits contains an express requirement to make a § 40.5 rule filing in certain circumstances. *See* 17 CFR 150.9(a).

did not receive any relevant comments on the 60-Day Notice that addressed its PRA burden estimates.

Respondents/Affected Entities: Designated Contract Markets, Swap Execution Facilities, Derivatives Clearing Organizations, and Swap Data Repositories.

Burden Statement:

OMB Control Number 3038–0093 reflects the information collection burden under Commission regulations associated with product filings (§§40.2 and 40.3); rule filings (§§40.5 and 40.6); and SIDCO filings (§40.10). As part of this renewal, the Commission has updated its burden estimates to reflect current filing volumes and burden hours.

Provisions Common to Regulated Entities IC

The Commission estimates the average burden of the Provisions Common to Regulated Entities IC as follows:

- *Product Submissions (§ 40.2 and 40.3)*

Estimated Number of Respondents: 70.³

Annual Responses by each Respondent: 12.⁴

Estimated Hours per Response: 21.⁵

Estimated Total Hours per Year: 17,640.

- *Rule Submissions (§§ 40.5 and 40.6)*

Estimated Number of Respondents: 70.⁶

³ The estimated number of 70 respondents includes 16 active DCMs, 23 registered SEFs, 15 registered DCOs, 5 provisionally registered SDRs, plus pending applications for those entities.

⁴ The 3-year average of total responses for §§ 40.2 and 40.3 submissions combined was 848 responses, calculated by taking the annual total submissions received under §§ 40.2 and 40.3 combined from all entities and averaging them for the years of 2020, 2021 and 2022. The estimated number of reports per respondent is calculated as 848 responses divided by 70 respondents (848 responses/70 respondents = 12 responses per respondent).

⁵ The 21-hour estimate for product submissions reflects industry comments received in 2018. See 83 FR 43855, 43856 (Aug. 28, 2018); Supporting Statement at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201808-3038-003.

⁶ See *supra* n.3.

Annual Responses by each Respondent: 20.⁷

Estimated Hours per Response: 2.

Estimated Total Hours per Year: 2,800.

- *SIDCO Submissions (§ 40.10)*

Estimated Number of Respondents: 2.

Annual Responses by each Respondent: 1.⁸

Estimated Hours per Response: 50.

Estimated Total Hours per Year: 100.

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

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

Robert Sidman,

Deputy Secretary of the Commission.

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⁷ The 3-year average of total responses for §§ 40.5 and 40.6 submissions combined was 1,412 responses, calculated by taking the annual total submissions received under §§ 40.5 and 40.6 combined from all entities and averaging them for the years of 2020, 2021 and 2022. The estimated number of reports per respondent is calculated as 1,412 responses divided by 70 respondents (1,412 responses/70 respondents = 20 responses per respondent).

⁸ The 3-year average of total responses for § 40.10 submissions was 2, calculated by taking the annual total submissions received under § 40.10 from all SIDCOs and averaging them for the years of 2020, 2021 and 2022. The average number of reports per respondent is 1, calculated as 2 responses divided by 2 respondents (2 responses /2 respondents = 1 response per respondent).