



## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities: Notice of Intent to Extend Collection

#### 3038-0094: Clearing Member Risk Management

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (“Commission” or “CFTC”) is announcing an opportunity for public comment on the proposed renewal of a collection of certain information 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, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the obligation to maintain records related to clearing documentation between a customer and the customer’s clearing member, as required under Commission regulations.

**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 “OMB Control No. 3038-0094,” by any of the following methods:

- The Agency’s website, at <https://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.
- *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:** Catherine Brescia, Attorney Advisor, Market Participants Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; (202) 418-6236; email: *cbrescia@cftc.gov*.

**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, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the existing collection of information listed 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.<sup>1</sup>

*Title:* Clearing Member Risk Management (OMB Control No. 3038-0094). This is a request for an extension of a currently approved information collection.

*Abstract:* Section 3(b) of the Commodity Exchange Act (“Act” or “CEA”) provides that one of the purposes of the Act is to ensure the financial integrity of all transactions subject to the Act and to avoid systemic risks. Section 8a(5) of the CEA authorizes the Commission to promulgate such regulations that it believes are reasonably

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<sup>1</sup> The OMB control numbers for the CFTC regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981).

necessary to effectuate any of the provisions or to accomplish any of the purposes of the CEA. Risk management systems are critical to the avoidance of systemic risks.

Section 4d requires Futures Commission Merchants (“FCMs”) to register with the Commission. It further requires FCMs to segregate customer funds. Section 4f requires FCMs to maintain certain levels of capital. Section 4g establishes reporting and recordkeeping requirements for FCMs. Section 4s(j)(2) of the CEA requires each Swap Dealer (“SD”) and Major Swap Participant (“MSP”) to have risk management systems adequate for managing its day-to-day business. Section 4s(j)(4) requires each SD and MSP to have internal systems and procedures to obtain any necessary information to perform any of the functions set forth in Section 4s.

Pursuant to these provisions, the Commission adopted Commission regulation 1.73 which applies to clearing members that are FCMs and Commission regulation 23.609 which applies to clearing members that are SDs or MSPs.<sup>2</sup> These provisions require these clearing members to have procedures to limit the financial risks they incur as a result of clearing trades and liquid resources to meet obligations.

The regulations require clearing members, who are FCMs, SDs, or MSPs to: (1) establish risk-based limits based on position size, order size, margin requirements, or similar factors, and for FCMs, risk-based limits must be established for the proprietary account and in each customer account; (2) screen orders for compliance with the risk-based limits; (3) monitor for adherence to the risk-based limits intra-day and overnight; (4) conduct stress tests under extreme but plausible conditions of all positions at least once per week, and for FCMs, the stress tests must be conducted for all positions in the proprietary account and in each customer account that could pose material risk to the FCM; (5) evaluate its ability to meet initial margin requirements at least once per week; (6) evaluate its ability to meet variation margin requirements in cash at least once per

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<sup>2</sup> 77 FR 21278 (Apr. 9, 2012).

week; (7) evaluate its ability to liquidate the positions it clears, in an orderly manner, and estimate the cost of the liquidation, and for FCMs, the evaluation must be done at least once per quarter and conducted for all positions in the proprietary and customer accounts; and (8) test all lines of credit at least once per year.

Each of these items has been observed by Commission staff as an element of an existing sound risk management program at an FCM, SD, or MSP. The Commission regulations require each FCM, SD, or MSP clearing member to establish written procedures to comply with these regulations and to keep records documenting its compliance.

The information collection obligations imposed by the regulations are necessary to implement certain provisions of the CEA, including ensuring that registrants exercise effective risk management and for the efficient operation of trading venues among FCMs, SDs, and MSPs that are clearing members, in order to maintain financial stability at derivatives clearing organizations (“DCOs”).

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 Commission, including whether the information will have a practical use;
- The accuracy of the Commission’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 <https://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish for the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (“FOIA”), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in §145.9 of the Commission Regulations.<sup>3</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 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 FOIA.

*Burden Statement:* The Commission is revising its estimate of the burden for this collection of information for clearing members of DCOs who are FCMs, SDs, and MSPs.

The respondent burden for this collection is estimated to be as follows:

*Estimated Number of Respondents:* 168 (62 Clearing Member FCMs and 106 Clearing Member SDs).

*Estimated Average Burden Hours Per Respondent:* 504 hours.

*Estimated Total Annual Burden Hours:* 84,672 hours.

*Frequency of Collection:* As needed.

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<sup>3</sup> 17 CFR 145.9.

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

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

**Dated:** January 30, 2025.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

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