



SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0732]

Proposed Collection; Comment Request; Extension: Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“SEC” or “Commission”) is soliciting comments on the proposed collection of information provided for in Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants¹ (17 CFR 240.3a67-10, 240.3a71-3, 240.3a71-6, 240.15Fh-1 through 15Fh-6 and 240.15Fk-1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (“Exchange Act”).

In 2010, Congress enacted the Dodd-Frank Act, establishing a comprehensive framework for regulating the over-the-counter swaps markets.² As required by Title VII of the Dodd-Frank Act, new section 15F(h) of the Exchange Act established business conduct standards for security-based swap Dealers (“SBS Dealers”) and Major security-based swap Participants (“collectively “SBS Entities”) in their dealings with counterparties, including special entities.³

¹ *Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants*, Exchange Act Release 77617 (Apr. 14, 2016), 81 FR 29959 (May 13, 2016). *See also Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants; Correction*, Exchange Act Release 77617A (May 19, 2016), 81 FR 32643 (May 24, 2016). (together, the “BCS Rules”)

² Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010) (“Dodd-Frank Act”).

³ “Special Entity” means: a federal agency; State, State agency, city, county, municipality, other political subdivision of a State, or any instrumentality, department, or a corporation of or established by a State or political subdivision of a State; any employee benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002); any governmental plan, as defined in Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002); any endowment, including an endowment that is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)); or any employee benefit plan defined in Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), not otherwise defined as a Special Entity, that elects to be a Special Entity by notifying a swap dealer or major swap participant of its election prior to entering into a swap with the particular swap dealer or major swap participant. 17 CFR 23.401(c).

In 2016, in order to implement the Dodd-Frank Act, the Commission adopted the BCS Rules for SBS Dealers and Major SBS Participants,⁴ a comprehensive set of business conduct standards and chief compliance officer (“CCO”) requirements applicable to SBS Entities, that are designed to enhance transparency, facilitate informed customer decision-making, and heighten standards of professional conduct to better protect investors.

Rules 15Fh-1 through 15Fh-6 and 15Fk-1 require SBS Entities to:

- Verify whether a counterparty is an eligible contract participant and whether it is a special entity;
- Disclose to the counterparty material information about the security-based swap, including material risks, characteristics, incentives and conflicts of interest;
- Provide the counterparty with information concerning the daily mark of the security-based swap;
- Provide the counterparty with information regarding the ability to require clearing of the security-based swap;
- Communicate with counterparties in a fair and balanced manner based on principles of fair dealing and good faith;
- Establish a supervisory and compliance infrastructure; and
- Designate a CCO that is required to fulfill the described duties and provide an annual compliance report.

The rules also require SBS Dealers to:

- Determine that recommendations they make regarding security-based swaps are suitable for their counterparties.
- Establish, maintain and enforce written policies and procedures reasonably designed to obtain and retain a record of the essential facts concerning each known counterparty that are necessary to conduct business with such counterparty; and
- Comply with rules designed to prevent “pay-to-play.”

The rules also define what it means to “act as an advisor” to a special entity, and require an SBS Dealer who acts as an advisor to a special entity to:

- Make a reasonable determination that any security-based swap or trading strategy involving a security-based swap recommended by the SBS Dealer is in the best interests

⁴ See supra note 1.

of the special entity whose identity is known at a reasonably sufficient time prior to the execution of the transaction to permit the SBS Dealer to comply with this obligation; and

- Make reasonable efforts to obtain such information that the SBS Dealer considers necessary to make a reasonable determination that a security-based swap or trading strategy involving a security-based swap is in the best interests of the known special entity.

In addition, the rules require SBS Entities acting as counterparties to special entities to reasonably believe that the counterparty has an independent representative who meets the following requirements:

- Has sufficient knowledge to evaluate the transaction and risks;
- Is not subject to a statutory disqualification;
- Undertakes a duty to act in the best interests of the special entity;
- Makes appropriate and timely disclosures to the special entity of material information concerning the security-based swap;
- Evaluates, consistent with any guidelines provided by the special entity, the fair pricing and the appropriateness of the security-based swap;
- Is independent of the security-based swap dealer or major security-based swap participant that is the counterparty to a proposed security-based swap.

Under the rules, the special entity's independent representative must also be subject to pay-to-play regulations, and if the special entity is an ERISA plan, the independent representative must be an ERISA fiduciary.

The information that must be collected pursuant to the BCS Rules is intended to increase accountability and transparency in the market. The information should therefore help establish a framework that protects investors and promotes efficiency, competition and capital formation.

Based on a review of recent data, as of 2025, the Commission staff estimate the number of respondents to be as follows: 53 SBS Dealers, 0 Major SBS Participants, for a total of 53 "SBS Entities."⁵ Further, The Commission staff estimate that approximately 46 of these 53 SBS

⁵ *List of Registered Security-Based Swap Dealers and Major Security-Based Swap Participants*, available at: <https://www.sec.gov/about/divisions-offices/division-trading-markets/list-registered-security-based-swap-dealers-major-security-based-swap-participants> (providing the list of registered security-based swap dealers and major security-based swap participants that was updated as of December 31, 2024). Information

Entities will be dually registered with the CFTC as Swap Entities. The Commission staff also estimate that there are currently 16,061 security-based swap market participants of which 12,406 are also swap market participants.⁶ From October 2021 through September 2022, the Commission staff estimate that there were approximately 377,271 security-based swap transactions between an SBS Dealer and counterparty that is not an SBS Dealer of which approximately 234,654 were new and 5,559 amended trades (totaling 240,213). The Commission staff estimate there are 283 independent, third-party representatives and 22 in-house independent representatives, for a total of 305 independent representatives.⁷ The Commission staff estimate that there are approximately 14,005 unique SBS Dealer and non-SBS-Dealer pairs.⁸ The Commission staff have used these estimates in calculating the hour and cost burdens for the rule provisions that the Commission staff anticipate have a “collection of information” burden within the meaning of the PRA.

The Commission staff estimate that the aggregate burden of the ongoing reporting and disclosures required by the BCS Rules, as described above, is approximately 535,595 hours and \$2,522,058 calculated as follows:

IC Title		Type of Burden	Respondents	Ongoing Annual Burden	Ongoing Annual Burden	Industry-wide Annual Burden	Industry-wide Annual Burden
				Hours	Cost	Hours	Cost
15Fh-3(b), (c), (d)	Disclosures - SBS Entities	Reporting	53	4,120	\$0	218,360	\$0
15Fh-3(b), (c), (d)	Disclosures - SBS Transactions Between SBS Dealer and Non-SBSD	Reporting	53	4,427.4	\$0	234,654	\$0

concerning Swap Entities registered with the CFTC available at: (<https://www.cftc.gov/IndustryOversight/Intermediaries/MajorSwapParticipantMSP/index.htm>).

⁶ Unless otherwise noted, estimates were derived from the DTCC-TIW data set (November 30, 2006 through September 2022). In October 2022, DTCC-TIW transaction data went through a major structural change. Commission staff are still in the process of resolving the consistency issue associated with this data.

⁷ See Information About Registered Municipal Advisors as of January 1, 2025 (<https://www.sec.gov/data-research/sec-markets-data/information-about-registered-municipal-advisors>).

⁸ See *supra* note 6.

	Counterparty						
15Fh-3(e), (f)	Know Your Counterparty and Recommendations (SBS Dealers)	Reporting	53	132.1	\$0	7,003	\$0
15Fh-3(g)	Fair and Balanced Communications	Reporting	53	2	\$4,158	106	\$220,374
15Fh-3(h)	Supervision	Reporting	53	540	\$5,544	28,620	\$293,832
15Fh-5	SBS Entities Acting as Counterparties to Special Entities	Reporting	53	305	\$0	16,165	\$0
15Fh-5	SBS Entities Acting as Counterparties to Special Entities	Third-Party Disclosure	53	305	\$0	16,165	\$0
15Fh-6	Political Contributions	Reporting	53	1	\$29,568	53	\$1,567,104
15Fk-1	Chief Compliance Officer	Reporting	53	273	\$8,316	14,469	\$440,748
	Total					535,595	\$2,522,058

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.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information will have practical utility; (b) the accuracy of the SEC's estimate of the burden imposed by the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated, electronic collection techniques or other forms of information technology.

Please direct your written comment to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg, 100 F Street NE, Washington, DC

20549 and send it by email to PaperworkReductionAct@sec.gov within 60 days of publication of this notice, by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Dated: May 21, 2025.

Sherry R. Haywood,

Assistant Secretary.

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