This document is scheduled to be published in the Federal Register on 2026-09-22 and available online at https://www.federalregister.gov/d/2026-19338, and on https://govinfo.gov

6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Extend Collection 3038–0062: Off-Exchange Foreign Currency Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission ("CFTC" or "Commission") 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 of 1995 ("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 extension of information collection requirements provided for by Part 5 of the Commission's regulations under the Commodity Exchange Act ("CEA").

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 "Off-Exchange Foreign Currency Transactions," Collection Number 3038–0062, by any of the following methods:

- Regulations.gov: Go to *https://www.regulations.gov* and press the "Search" button, then proceed as follows:
    1. Under Refine Documents Result – check the box to "Only show documents open for comment";
    2. Under Agency – select "See More" and check the box for "Commodity Futures Trading Commission," then press the Apply button;

3. Identify this notice in the list of CFTC documents open for comment, press the "Comment" button to open the submission form and follow the instructions on the form.

Alternatively, if you are viewing this notice on *www.federalregister.gov*, click the "Submit A Public Comment" button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to *Regulations.gov*.

- **Mail:** Send to – Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.
- **Hand Delivery/Courier:** Address to – CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one method. To avoid possible delays with mail or in-person deliveries, submissions through *Regulations.gov* are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential. If you wish to submit confidential information for the Commission's consideration, please contact the CFTC personnel listed in this Notice under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission's procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act ("FOIA") of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this notice, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act, the Paperwork Reduction Act, and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Catherine Brescia, Attorney Advisor, at (202) 418-6236 or *cbrescia@cftc.gov*, Market Participants Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; and refer to OMB Control No. 3038-0062.

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 C.F.R. 1320.3(c) 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 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.[1] To comply with this requirement, the CFTC is publishing notice of the proposed extension of the existing

[1] 44 U.S.C. 3506(c)(2)(A).

collections 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.

Title: Off-Exchange Foreign Currency Transactions (OMB Control No. 3038–0062). This is a request for an extension of a currently approved information collection.

Abstract: Part 5 of the Commission's regulations under the CEA establishes rules applicable to retail foreign exchange dealers ("RFEDs"), futures commission merchants ("FCMs"), introducing brokers ("IBs"), commodity trading advisors ("CTAs"), and commodity pool operators ("CPOs") engaged in the offer and sale of off-exchange forex contracts to retail customers. Specifically:

- Regulation 5.5 requires RFEDs, FCMs, and IBs to distribute risk disclosure statements to new retail forex customers.
- Regulation 5.6 requires RFEDs and FCMs to report any failures to maintain the minimum capital required by Commission regulations.
- Regulation 5.8 requires RFEDs and FCMs to calculate their total retail forex obligation.
- Regulation 5.10 requires RFEDs to maintain and preserve certain risk assessment documentation.
- Regulation 5.11(a)(1) requires RFEDs to submit certain risk assessment documentation to the Commission within 60 days of the effective date of their registration.
- Regulation 5.11(a)(2) requires RFEDs to submit certain financial documentation to the Commission within 105 calendar days of the end of each fiscal year. RFEDs must also submit additional information, if requested, regarding affiliates' financial impact on an RFED's organizational structure.

- Regulation 5.12(a) requires RFED applicants to submit a Form 1–FR–FCM concurrently with their registration application.

- Regulation 5.12(b) requires registered RFEDs to file a Form 1–FR– FCM on a monthly and annual basis.

- Regulation 5.12(g) states that, in the event that an RFED cannot file its Form 1–FR–FCM for any period within the time specified in Regulation 5.12(b), the RFED may file an application for an extension of time with its self-regulatory organization.

- Regulation 5.13(a) requires RFEDs and FCMs to provide monthly account statements to their customers.

- Regulation 5.13(b) requires RFEDs and FCMs to provide confirmation statements to their customers within one business day after the execution of any retail forex or forex option transaction.

- Regulation 5.14 requires RFEDs and FCMs to maintain current ledgers of each transaction affecting its asset, liability, income, expense and capital accounts.

- Regulation 5.18(g) requires each RFED, FCM, CPO, CTA, and IB subject to part 5 to maintain a record of all communications received that give rise to possible violations of the Act, rules, regulations or orders thereunder related to their retail forex business.

- Regulation 5.18(i) requires each RFED and FCM to prepare and maintain on a quarterly basis a calculation of nondiscretionary retail forex customer accounts open for any period of time during the quarter that were profitable, and the percentage of such accounts that were not profitable.

- Regulation 5.18(j) requires the chief compliance officer of each RFED and FCM to certify annually that the firm has in place processes to establish, maintain, review, modify and test policies and procedures reasonably designed to achieve compliance with the Act, rules, regulations and orders thereunder.

- Regulation 5.19 requires each RFED, FCM, CPO, CTA, and IB subject to part 5 to submit to the Commission copies of any dispositive or partially dispositive decision for which a notice of appeal has been filed in any material legal proceeding (1) to which the firm is a party to or to which its property or assets is subject with respect to retail forex transactions, or (2) instituted against any person who is a principal of the firm arising from conduct in such person's capacity as a principal of that firm.

- Regulation 5.20 requires RFEDs, FCMs and IBs to submit documentation requested pursuant to certain types of special calls by the Commission.

- Regulation 5.23 requires RFEDs, FCMs and IBs to notify the Commission regarding bulk transfers and bulk liquidations of customer accounts.

The rules establish reporting and recordkeeping requirements that are necessary to implement the provisions of the Food, Conservation, and Energy Act of 2008[2] regarding off-exchange transactions in foreign currency with members of the public. The rules are intended to promote customer protection by providing safeguards against irresponsible or fraudulent business practices.[3]

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collections of information are 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 burdens of the proposed collections 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

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[2] Public Law 110–246, 122 Stat. 1651, 2189–220 (2008).
[3] *See* Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 FR 55410, 55416 (Sept. 10, 2010).

- Ways to minimize the burdens 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).

Burden Statement: The Commission is revising its burden estimate for 64 respondents, which include RFEDs, FCMs, IBs, CPOs, and CTAs, as follows:

Estimated Number of Respondents: 64.

Estimated Average Burden Hours Per Respondent: 2,195.[4]

Estimated Total Annual Burden Hours: 140,454.

Frequency of Collection: As applicable.

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

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

Dated: September 18, 2026.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2026-19338 Filed: 9/21/2026 8:45 am; Publication Date: 9/22/2026]

[4] This figure has been rounded to the nearest whole number.