



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Intent to Renew

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), 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 in response to the notice. This notice solicits comments on collections of information provided for by the Disclosure and Retention of Certain Information Related to Cleared Swaps, Customer Collateral.

DATES: Comments must be submitted on or before [60 days after publication].

ADDRESSES: Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses below.

Please refer to OMB Control No. 3038-0091 in any correspondence.

Martin B. White, Office of the General Counsel, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Comments may also be submitted by any of the following methods:

The agency's website, at <http://comments.cftc.gov>. Follow the instructions for submitting comments through the website.

Mail: Sauntia S. Warfield, Assistant 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.

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Please submit your comments using only one method and identify that it is for the renewal of 3038-0091.

All comments must be submitted in English, or if not, accompanied by an English translation.

Comments will be posted as received to www.cftc.gov. You should submit 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. See 17 CFR 145.9.

FOR FURTHER INFORMATION CONTACT: Martin B. White, Office of the General Counsel, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, (202) 418-5129; Fax: (202) 418-5567; e-mail: mwhite@cftc.gov and refer to OMB Control No. 3038-0091.

SUPPLEMENTARY INFORMATION:

Title: Disclosure and Retention of Certain Information Related to Cleared Swaps, Customer Collateral (OMB Control No. 3038-0091). This is a request for extension of a currently

approved information collection.

Abstract: Under the PRA, 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(c) and include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 350(c)(2)(A) of the PRA, 44 Section 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 to approve. To comply with this requirement, the CFTC is publishing notice of the proposed collection of the information below.

With respect to the following 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 minimize the burden of collection of information on those who are to respond, including through the use of appropriate electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Disclosure and Retention of Certain Information Related to Cleared Swaps, Customer Collateral.

OMB Control No. 3038-0091—Extension

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. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The Federal Register notice with a 60-day comment period soliciting comments on this collection of information was published on December 29, 2012 (73 FR 81916).

Burden statement: Section 22.2(g) requires each futures commission merchant (FCM) with Cleared Swaps Customer Accounts to compute daily the amount of Cleared Swaps Customer Collateral on deposit in Cleared Swaps Customer Accounts, the amount of such collateral required to be on deposit in such accounts and the amount of the FCM's residual financial interest in such accounts. Section 22.5(a) requires an FCM or derivatives clearing organization (DCO) to obtain, from each depository with which it deposits cleared swaps customer funds, a letter acknowledging that such funds belong to the Cleared Swaps Customers of the FCM, and not the FCM itself or any other person. Section 22.11 requires each FCM that intermediates cleared swaps for customers on or subject to the rules of a DCO, whether directly as a clearing member or indirectly through a Collecting FCM, to provide the DCO or the Collecting FCM, as appropriate, with information sufficient to identify each customer of the FCM whose swaps are cleared by the FCM. Section 22.11 also requires the FCM, at least once daily, to provide the DCO or the Collecting FCM, as appropriate, with information sufficient to identify each customer's portfolio of rights and obligations arising out of cleared swaps intermediated by the FCM. Section 22.12 requires that each Collecting FCM and DCO, on a daily basis, calculate, based on information received pursuant to section 22.11 and on information generated and used in the ordinary course of business by the Collecting FCM or DCO, and record certain information about the amount of collateral required for each Cleared Swaps Customer and the

sum of these amounts. Section 22.16 requires that each FCM who has Cleared Swaps Customers disclose to each of such customers the governing provisions, as established by DCO rules or customer agreements between collecting and depositing FCMs, relating to use of customer collateral, transfer, neutralization of the risks, or liquidation of cleared swaps in the event of a default by a Depositing FCM relating to a Cleared Swaps Customer Account.

The Commission estimates the average burden of this collection of information as follows:

The recordkeeping and disclosure requirements of sections 22.2(g) and 22.11 are expected to apply to approximately 100 entities on a daily basis. The recordkeeping requirement of section 22.5 is expected to apply to approximately 100 entities on an approximately annual basis. Based on experience with analogous recordkeeping and disclosure requirements for FCMs in futures transactions, the recordkeeping and disclosure required by section 22.2(g) is expected to require about 100 hours annually per entity, for a total burden of approximately 10,000 hours.

The disclosure required by section 22.11 involves information that FCMs that intermediate swaps generate and use in the usual and customary ordinary course of their business. It is expected that the required disclosure will be performed using automated data systems that FCMs maintain and use in the usual and customary ordinary course of their business but that certain additional functionality will need to be added to these systems to perform the required disclosure. Because of the novel character of proposed section 22.11, it is not possible to make a precise estimate of the paperwork burden. The necessary modifications to, and maintenance of, systems may require a range of between 20 and 40 hours of work annually.

The recordkeeping required by section 22.12 involves information that Collecting FCMs and DCOs will receive pursuant to section 22.11 or that they generate and use in the usual and customary ordinary course of their business. It is expected that the required recordkeeping will be performed using automated data systems that Collecting FCMs and DCOs maintain and use in the usual and customary ordinary course of their business but that certain additional functionality will need to be added to these systems to perform the required disclosure. Because of the novel character of section 22.12, it is not possible to make a precise estimate of the paperwork burden. The necessary modifications to, and maintenance of, systems may require a range of between 20 and 40 hours of work annually. It is expected that the required recordkeeping will be performed by approximately 100 entities. The total annual burden for section 22.11 therefore is estimated at 2,000 to 4,000 hours.

Section 22.16 would apply to the same estimated 100 entities as sections 22.2(g), 22.5(a) and 22.11. The required disclosure would have to be made once each time a swaps customer begins to be cleared through a particular DCO or collecting FCM and each time a DCO or collecting FCM through which a customer's swaps are cleared changes its policies on the matters covered by the disclosure. It is expected that each disclosure would require about 0.2 hours of staff time by staff. It is uncertain what average number of swaps customers FCMs will have, and what average number of disclosures will be required for each customer annually. Assuming an average of 500 customers per FCM and two disclosures per customer per year, the estimated total annual burden would be 200 hours.

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

Sauntia S. Warfield
Assistant Secretary of the Commission

Dated September 26, 2012

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