



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 DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (OIRA) in OMB, within 30 days of the notice's publication, by email at OIRAsubmissions@omb.eop.gov. Please identify the comments by OMB Control No. 3038-0067. Please provide the Commission with a copy of all submitted comments at the address listed below. Please refer to OMB Reference No. 3038-0067, found on <http://reginfo.gov>. Comments may also be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Commodity Futures Trading Commission, 725 17th Street, NW., Washington, DC 20503 or through the Agency's website at <http://comments.cftc.gov>. Follow the instructions for submitting comments through the website.

Comments may also be mailed to: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, D.C. 20581 or by Hand Delivery/Courier at the same address.

A copy of the supporting statements for the collection of information discussed above may be obtained by visiting <http://RegInfo.gov>. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>.

FOR FURTHER INFORMATION OR A COPY CONTACT: Sue McDonough, Counsel, Office of General Counsel, Commodity Futures Trading Commission, (202) 418-5132; email: smcdonough@cftc.gov, and refer to OMB Control No. 3038-0067.

SUPPLEMENTARY INFORMATION:

Title: Part 162 Subpart C-Identity Theft Rule (OMB Control No. 3038-0067). This is a request for extension of a currently approved information collection.

Abstract: This collection of information is needed because under part 162 subpart C-Identify Theft, CFTC-regulated entities are required to develop and implement reasonable policies and procedures to identify, detect, and respond to relevant red flags (the Identity Theft Red Flags Rules) and, in the case of entities that issue credit or debit cards, to assess the validity of, and communicate with cardholders regarding, address changes. Section 162.30 includes the following information collection requirements for each CFTC-regulated entity that qualifies as a “financial institution” or “creditor” under part 162 subpart C and that offers or maintains covered accounts: (i) creation and periodic updating of an identity theft prevention program (“Program”) that is approved by the board of directors, an appropriate committee thereof, or a designated senior management employee; (ii) periodic staff reporting to

the board of directors on compliance with the Identity Theft Red Flags Rules and related guidelines; and (iii) training of staff to implement the Program. Section 162.32 includes the following information collection requirements for each CFTC-regulated entity that is a credit or debit card issuer: (i) establishment of policies and procedures that assess the validity of a change of address notification if a request for an additional or replacement card on the account follows soon after the address change; and (ii) notification of a cardholder, before issuance of an additional or replacement card, at the previous address or through some other previously agreed-upon form of communication, or alternatively, assessment of the validity of the address change request through the entity's established policies and procedures. The Commission uses the collection of information to discharge its regulatory responsibilities to protect investors from the risks of identity theft.

CFTC staff estimates of the hour burdens associated with section 162.30 include the one-time burden of complying with this section for newly-formed CFTC-regulated entities, as well as the ongoing costs of compliance for all CFTC-regulated entities. With respect to the one-time burden hours, staff estimates that each newly-formed financial institution or creditor would incur a burden of 2 hours to conduct an initial assessment of covered accounts. Staff estimates that approximately 572 CFTC-regulated financial institutions and creditors are newly formed each year, and the total estimated one-time burden to initially assess covered accounts is therefore 1,144 hours. Staff also estimates that each financial institution or creditor that maintains covered accounts would incur an additional initial burden of 29 hours to develop and obtain board approval of a Program and hours to train the staff of the financial institution or creditor. Staff estimates that approximately 47¹ CFTC-regulated financial institutions and

¹ Based on a review of new registrations typically filed with the CFTC each year, CFTC staff estimates that approximately 6 futures commission merchants ("FCMs"), 83 introducing brokers ("IBs"), 282 commodity trading

creditors that maintain covered accounts are newly formed each year, and thus the total estimated one-time burden to develop and obtain board approval of a Program and train staff is 1,363 hours. Thus, the total initial estimated burden for all newly-formed CFTC-regulated entities is 2,507 hours (1,144 hours + 1,363 hours).

With respect to ongoing annual burden hours, CFTC staff estimates that each financial institution or creditor would incur a burden of 2 hours to periodically assess whether it offers or maintains covered accounts. Staff estimates that there are approximately 3,956 CFTC-regulated entities that are either financial institutions or creditors, and the total estimated annual burden to periodically assess covered accounts is therefore 7,912 hours. Staff also estimates that each financial institution or creditor that maintains covered accounts would incur an additional annual burden of 4 hours to prepare and present an annual report to the board and 2 hours to periodically review and update the Program. Staff estimates that there are approximately 47 CFTC-regulated entities that are financial institutions or creditors that offer or maintain covered accounts, and thus the total estimated additional annual burden for these entities is 282 hours. Thus, the total ongoing annual estimated burden for all CFTC-regulated entities is 8,194 hours (7912 hours + 282 hours).

The collections of information required by section 162.32 will apply only to CFTC-regulated entities that issue credit or debit cards. CFTC staff understands that CFTC-regulated entities generally do not issue credit or debit cards, but instead may partner with

advisors (“CTAs”), and 198 commodity pool operators (“CPOs”) are newly formed each year, for a total of 572 entities. CFTC staff also has observed that approximately 50 percent of all CPOs are dually registered as CTAs. With respect to RFEDs, CFTC staff has observed that all entities registering as RFEDs also register as FCMs. Based on these observations, CFTC has determined that the total number of newly-formed financial institutions and creditors is 470 (569-99 CPOs that are also registered as CTAs). There were no newly registered RFEDs, SDs, or MSPs. Each of these 470 financial institutions or creditors would bear the initial one-time burden of compliance. Of the total 470 newly-formed entities, staff estimates that all of the FCMs are likely to carry covered accounts, 10 percent of CTAs and CPOs are likely to carry covered accounts, and none of the IBs are likely to carry covered accounts, for a total of 47 newly-formed financial institutions or creditors carrying covered accounts that would be required to conduct an initial one-time burden of compliance with subpart C of part 162.

other entities, such as banks, that issue cards on their behalf. These other entities, which are not regulated by the CFTC, are already subject to substantially similar change of address obligations pursuant to other federal regulators' identity theft red flags rules. Therefore, staff does not expect that any CFTC-regulated entities will be subject to the information collection requirements of section 163.32, and accordingly, staff estimates that there is no hour burden related to section 162.32 for CFTC-regulated entities.

In total, CFTC staff estimates that the aggregate annual information collection burden of part 162 subpart C is 10,701 hours (2,507 hours + 8,194 hours). This estimate of burden hours is made solely for the purposes of the Paperwork Reduction Act and is not derived from a quantitative, comprehensive, or even representative survey or study of the burdens associated with Commission rules and forms. Compliance with part 162 subpart C, including compliance with the information collection requirements thereunder, is mandatory for each CFTC regulated entity that qualifies as a "financial institution" or "creditor" under part 162 subpart C (as discussed above, certain collections of information under part 162 subpart C are mandatory only for financial institutions or creditors that offer or maintain covered accounts).

The Commission did not receive any comments on the 60-day Federal Register notice, 81 FR 35001, dated June 1, 2016.

Estimated Number of Respondents: 4,622.

Estimated Average Burden Hours Per Respondent: 2.32.

Estimated Total Annual Burden Hours: 10,723.²

Frequency of Collection: Once.

² This total annual burden hour reflects a slight increase in the estimated total annual burden hours to account for the average burden hours per respondent of 2.32 hours.

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

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

Dated: July 27, 2016

Christopher J. Kirkpatrick,

Secretary of the Commission.

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