



6351-01-P

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 either of the following methods. Please identify the comments by OMB Control No. 3038-0091.

- By email addressed to: OIRAsubmissions@omb.eop.gov; or
- By mail addressed to: 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.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (“CFTC” or “Commission”) by either of the following methods. The copies should refer to OMB Control No. 3038-0091.

- By submission through the Commission’s website: <http://comments.cftc.gov>.

Please follow the instructions for submitting comments through the website;

- By mail addressed to: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; or

- By hand delivery/courier to: the address listed above for submission by mail.

FOR FURTHER INFORMATION CONTACT: Jacob Chachkin, Special Counsel, 202-418-5496, e-mail: jchachkin@cftc.gov; or Joshua Beale, Special Counsel, 202-418-5446, e-mail: jbeale@cftc.gov, both in the CFTC Division of Swap Dealer and Intermediary Oversight.

SUPPLEMENTARY INFORMATION:

Supporting statements. A copy of the supporting statements for the collection of information discussed herein may be obtained by visiting <http://RegInfo.gov>.

Comment instructions. 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>. 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 (“FOIA”), 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, 17 CFR 145.9. 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 <http://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 ICR 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 the FOIA.

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

Abstract: Part 22 of the Commission's regulations under the Commodity Exchange Act ("CEA") establishes rules for the protection of customer collateral held by futures commission merchants ("FCM") and derivatives clearing organizations ("DCO") to serve as margin in cleared swaps transactions. As part of this regulatory scheme, §§ 22.2(g), 22.5(a), 22.11, 22.12, 22.16, and 22.17 impose recordkeeping and third-party disclosure requirements on FCMs and DCOs. In addition, § 22.13(c)(2) indirectly requires FCMs who post excess collateral with DCOs to perform certain computations regarding such collateral, although it is not expected to materially affect the total paperwork burden associated with Part 22.

Section 22.2(g) requires each FCM with Cleared Swaps Customer Accounts¹ to, among other things, compute daily and report to the Commission the amount of Cleared

¹ For the definition of Cleared Swaps Customer Account, see 17 CFR 22.1.

Swaps Customer Collateral² on deposit in such 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 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 Customers³ of the FCM or DCO, and not the FCM, DCO, 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 FCM⁴, 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 § 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

² *Id.*

³ *Id.*

⁴ *Id.*

liquidation of cleared swaps in the event of default by a Depositing FCM⁵ relating to a Cleared Swaps Customer Account. Section 22.17 requires that FCM produce a written notice of the reasons and the details concerning withdrawals from Cleared Swaps Customers Account not for the benefit of Cleared Swap Customers if such withdrawal will exceed 25% of the FCMs residual interest in such account.

The Commission believes that the information collection obligations imposed by Commission regulations in §§ 22.2(g), 22.5(a), 22.11, 22.12, 22.16, and 22.17 are essential (i) to ensuring that FCMs and DCOs develop and maintain adequate customer protections and procedures over Cleared Swap Customer funds as required by the CEA, and Commission regulations, and (ii) to the effective evaluation of these registrants' actual compliance with the CEA and Commission regulations. On April 24, 2017, the Commission published in the *Federal Register* a notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension. *See* 82 FR 18900 (April 24, 2017). The Commission received no comments.

Burden Statement: The Commission is revising its estimate of the burden for this collection to reflect the current number of affected registrants. Accordingly, the respondent burden for this collection is estimated to be as follows:

Number of Registrants: 68

Estimated Average Burden Hours Per Registrant: 365

Estimated Aggregate Burden Hours: 24,820

⁵ *Id.*

Frequency of Recordkeeping: As applicable.

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

Dated: July 21, 2017

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2017-15767 Filed: 7/26/2017 8:45 am; Publication Date: 7/27/2017]