



BILLING CODE: 4810-033-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities:

Information Collection Renewal; Comment Request;

Margin and Capital Requirements for Covered Swap Entities

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on the renewal of an information collection as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, “Margin and Capital Requirements for Covered Swap Entities.”

DATES: Comments must be submitted on or before [INSERT 60 DAYS FROM DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: Commenters are encouraged to submit comments by e-mail, if possible. You may submit comments by any of the following methods:

- E-mail: prainfo@occ.treas.gov.

- Mail: Chief Counsel’s Office, Office of the Comptroller of the Currency, Attention: 1557-0251, 400 7th Street, SW., suite 3E-218, Washington, DC 20219.
- Hand Delivery/Courier: 400 7th Street, SW., suite 3E-218, Washington, DC 20219.
- Fax: (571) 465-4326.

Instructions: You must include “OCC” as the agency name and “1557-0251” in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection¹ by any of the following methods:

- Viewing Comments Electronically: Go to *www.reginfo.gov*. Click on the “Information Collection Review” tab. Underneath the “Currently under Review” section heading, from the drop-down menu, select “Department of Treasury” and then click “submit.” This information collection can be located by searching by OMB control number “1557-0251” or “Margin and Capital Requirements for Covered Swap Entities.” Upon finding the appropriate information collection, click on the related “ICR Reference Number.” On the next screen, select “View Supporting Statement and Other Documents” and then click on the link to any comment listed at the bottom of the screen.

¹ Following the close of the 60-day comment period for this notice, the OCC will publish a notice for 30 days of comment for this collection.

- For assistance in navigating *www.reginfo.gov*, please contact the Regulatory Information Service Center at (202) 482-7340.
- Viewing Comments Personally: You may personally inspect comments at the OCC, 400 7th Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649-5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street, SW., suite 3E-218, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include 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 title 44 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. The OCC requested and received emergency PRA approval for the interim final rule. The emergency approval will expire in six months and this notice is the first step in renewing it.

Title: Margin and Capital Requirements for Covered Swap Entities.

OMB Control No.: 1557-0251.

Description: On March 19, 2019,² the OCC, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Farm Credit Administration, and the Federal Housing Finance Agency (agencies) issued an interim final rule amending the agencies' regulations that require swap dealers and security based swap dealers (Swap Margin Rule) under the agencies' respective jurisdictions to exchange margin with their counterparties for swaps that are not centrally cleared. Swaps entered into before the effective dates of the Swap Margin Rule are grandfathered by the Swap Margin Rule until they expire according to their terms. There are currently financial services firms in the United Kingdom (U.K.) that conduct swap dealing activities subject to the Swap Margin Rule. If the U.K. withdraws from the European Union (E.U.) without a negotiated agreement between the U.K. and E.U., entities located in the U.K. may not be authorized to provide full-scope financial services to swap counterparties located in the E.U. The agencies are addressing a scenario whereby entities located in the U.K. might transfer their existing swap portfolios that face counterparties located in the E.U. over to an affiliate or other related establishment located within the E.U. or the United States (U.S.). These transfers, if carried out in accordance with the conditions of the interim final rule, will not trigger the application of the Swap Margin Rule to grandfathered swaps that were entered into before the Swap Margin Rule's compliance dates.

The interim final rule distinguishes transfers initiated by the financial entity standing as the covered swap entity at the completion of the transaction from a transfers initiated by the covered swap entity's counterparty. In the case of transfers initiated by the covered swap entity's counterparty, the counterparty must make a representation to the covered swap entity

² 84 FR 9940.

that the counterparty carried out the swap in accordance with both elements of the purpose test.³ Twelve CFR 45.1(h) specifies that transfers of legacy swaps initiated by a covered swap entity's counterparty require a representation to the covered swap entity that the counterparty carried out the swap in accordance with both elements of the purpose test in order to remain outside the scope of the rule. This requirement constitutes a third party disclosure under the PRA.

Estimated Number of Respondents: 10.

Estimated Burden per Response: 1 hour.

Total Estimated Burden: 10 hour.

Type of Review: Regular.

Affected Public: Individuals; Businesses or other for-profit.

Frequency of Response: On occasion.

Comments submitted in response to this notice will be summarized, included in the request for OMB approval, and become a matter of public record. Comments are invited on:

- (a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;
- (b) The accuracy of the OCC's estimate of the burden of the collection of information;
- (c) Ways to enhance the quality, utility, and clarity of the information to be collected;
- (d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- (e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

³ The purpose test requires that the financial entity located in the U.K. arrange to make the amendments to the non-cleared swap solely for the purpose of transferring the non-cleared swap to an affiliate or other related establishment that is located in an E.U. Member State or the United States. This purpose test also contains a requirement that the transfer be made in connection with the U.K. entity's planning for the possibility that the U.K. might exit the E.U. without a negotiated agreement, or the U.K. entity's response to such an event.

Dated: March 25, 2019.

Theodore J. Dowd,
Deputy Chief Counsel,
Office of the Comptroller of the Currency.

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