



## 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 estimate 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 this notice's publication by either of the following methods. Please identify the comments by "OMB Control No. 3038-0024."

- 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 (the Commission) by one of the following methods. The copies should refer to “OMB Control No. 3038-0024.”

- Through the Commission’s website at <https://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 same address as specified for mail.

Please submit your comments to the Commission using only one method. A copy of the supporting statement for the collection of information discussed herein 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 <https://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.<sup>1</sup> 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 <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or

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<sup>1</sup> 17 CFR 145.9.

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 applicable laws, and may be accessible under the FOIA.

**FOR FURTHER INFORMATION CONTACT:** Joshua Beale, Associate Director, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, (202) 418-5446; email: *jbeale@cftc.gov*.

**SUPPLEMENTARY INFORMATION:**

**Title:** Regulations and Forms Pertaining to the Financial Integrity of the Marketplace (OMB Control No. 3038-0024). This is a request for extension of a currently approved information collection.

**Abstract:** The Commission is the independent federal regulatory agency charged with providing various forms of customer protection so that users of the commodity markets can be assured of the financial integrity of the markets and the intermediaries that they employ in their trading activities. Part 1 of the Commission's regulations requires, among other things, that commodity brokers – known as futures commission merchants (FCM) or introducing brokers (IB) comply with minimum capital and segregation requirements. In order to monitor compliance with these financial standards, the Commission has required FCMs and IBs to file financial reports with the Commission and with the designated self-regulatory organization (DSRO) of which they are members as well as to report to the Commission should capital levels drop below prescribed minimums.

In 2008, the U.S. Congress passed the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651, 2189-2204 (2008), also known as the Farm

Bill. The Farm Bill provided the Commission with new authority with regard to the regulation of off-exchange retail forex transactions. Among other things, it directed the Commission to draft rules effectuating registration provisions for a new category of registrant – the retail foreign exchange dealer, or RFED. Under the terms of the legislation, RFEDs are subject to the same capital requirements as FCMs that are engaged in retail forex transactions, and, therefore, subject to the same reporting requirements. Accordingly, this collection was amended to reflect the financial reporting requirements of the new category of registrant, RFEDs.

In 2010, the U.S. Congress passed the Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”), Pub. L. No. 111-203, 124 Stat. 1376 (2010), giving the Commission the authority to regulate certain swap markets and participants in those markets. Section 731 of the Dodd-Frank Act, amended the Commodity Exchange Act (CEA), 7 U.S.C. 1 et seq., to add, as section 4s(e) thereof, provisions concerning the setting of initial and variation margin requirements for swap dealers (SD) and major swap participants (MSP). In 2016, the Commission finalized the Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants rule to implement those requirements. Specifically, Regulation 23.154(b) require SDs and MSPs that do not have a prudential regulator (CSE) that are using a model to compute initial margin requirements to submit the model for review and approval by the Commission or a registered futures association. CSEs must also notify the Commission upon making certain changes to the model. The information required for the prior written approval of the margin model or for certain changes to such model, is needed to demonstrate that the model satisfies all of the requirements of Regulation 23.154(b).

Finally, in 2013, the Commission finalized rules in an effort to prevent unauthorized usage of customer funds by FCMs and RFEDs. The final rules include modifications to the reporting requirements required by the Commission which resulted in changes to the financial statements filed by FCMs and RFEDs and made some of the recordkeeping requirements already contained in this OMB Collection Number 3038-0024 into reporting requirements. These rules added additional recordkeeping requirements by FCMs to assure the segregation of customer funds. This collection, OMB Control No. 3038-0024, is needed for the Commission to continue its financial monitoring of its registrants. The burden hours are being revised to reflect the current number of registrants and updated to reflect more accurate numbers regarding the number of financial reports filed, based on current historical data.

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. On April 9, 2019, the Commission published in the *Federal Register* notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 84 FR 14099 (“60-Day Notice”). The Commission did not receive any comments on the 60-Day Notice.

**Burden Statement:** The Commission is revising its estimate of the burden for this collection for approximately 66 FCMs and RFEDs, 50 CSEs and 1,178 IBs. The respondent burden for this collection is estimated to be as follows:

*Respondents/Affected Entities:* FCMs, RFEDs, IBs, SDs, and MSPs that do not have a Prudential Regulator.

*Estimated Number of Respondents:* 1,294

*Estimated Average Burden Hours per Respondent: 62*

*Estimated Total Annual Burden Hours: 80,837*

*Frequency of Collection:* Various. For example, FCMs have both daily and monthly financial reporting obligations, annual certified financial and compliance report obligations, and periodic notice requirements.

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

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

Dated: June 21, 2019.

Christopher Kirkpatrick,

*Secretary of the Commission.*

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