

activities satisfies appropriate standards.<sup>5</sup> Such a determination would permit ICE Clear Europe to operate as an MCO consistent with the requirements set forth in FDICIA Section 409(b)(3).

In reviewing this request, the Commission has considered the UK legal and regulatory regime for what are referred to as "recognised clearing houses," and how that regime has been applied to ICE Clear Europe. This includes the UK's Financial Services and Markets Act, 2000<sup>6</sup> (FSMA), regulations thereunder,<sup>7</sup> and regulatory guidance provided by the FSA.<sup>8</sup> ICE Clear Europe provided the CFTC with its analysis of the correspondence between recognition requirements applicable to clearing houses recognized by the FSA and the core principles applicable to DCOs as set forth in CEA Section 5b.<sup>9</sup>

The Commission also considered additional facts, including the authority of the FSA to enforce compliance with the applicable foreign law, the foreign law's applicability to the activities of MCOs, FSA's membership in the International Organization of Securities Commissions (IOSCO), a review of the UK financial system in general (including FSA's supervision of clearing in particular) by the International Monetary Fund and World Bank (with satisfactory results), and the FSA's demonstrated ability and willingness to share information and otherwise cooperate with the CFTC.

The FSA is authorized under the FSMA to supervise the clearing of financial instruments by persons located in the UK and has the authority to

enforce compliance with applicable laws, rules and regulations.<sup>10</sup> Clearing in the UK of OTC instruments may be conducted only by a clearing house recognized by the FSA,<sup>11</sup> thus MCO activity is subject to regulatory supervision by the FSA. Furthermore, the FSA has the ability and has agreed to share with the CFTC, upon request, information in its possession regarding ICE Clear Europe's activities as a recognised clearing house and to otherwise cooperate with the CFTC.<sup>12</sup>

As a matter of courtesy, the Commission invited comment concerning ICE Clear Europe's application from the other federal financial regulators listed in Section 409, but received none. The Commission also invited the public to comment on ICE Clear's petition by general release posted on the Commission's Web site on June 17, 2008. The Commission received comments from three individuals. Each of these comments concerned the trading of contracts in the United Kingdom, but none addressed the FSA's program for the supervision of clearing. As noted above, the supervision of trading was outside the scope of the current review.

Based upon this information, the CFTC has determined, pursuant to FDICIA Section 409(b)(3), that the supervision by the UK's FSA of ICE Clear Europe's activity in clearing OTC instruments satisfies appropriate standards. Any material changes or omissions in the facts and circumstances upon which this order is based might require the CFTC to reconsider this matter.

Issued in Washington, DC, on July 23, 2008.

**David A. Stawick,**

*Secretary of the Commission.*

[FR Doc. E8-17357 Filed 7-30-08; 8:45 am]

**BILLING CODE 6351-01-P**

## COMMODITY FUTURES TRADING COMMISSION

### Fees for Reviews of the Rule Enforcement Programs of Contract Markets and Registered Futures Associations

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Establish the FY 2008 schedule of fees.

**SUMMARY:** The Commission charges fees to designated contract markets and registered futures associations to recover the costs incurred by the Commission in the operation of its program of oversight of self-regulatory organization (SRO) rule enforcement programs (17 CFR part 1 Appendix B) (National Futures Association (NFA), a registered futures association, and the contract markets are referred to as SROs). The calculation of the fee amounts to be charged for FY 2008 is based upon an average of actual program costs incurred during FY 2005, 2006, and 2007, as explained below. The FY 2008 fee schedule is set forth in the **SUPPLEMENTARY INFORMATION**. Electronic payment of fees is required.

**DATES:** *Effective Date:* The FY 2008 fees for Commission oversight of each SRO rule enforcement program must be paid by each of the named SROs in the amount specified by no later than September 29, 2008.

**FOR FURTHER INFORMATION CONTACT:** Stacy Dean Yochum, Deputy Executive Director, Commodity Futures Trading Commission, (202) 418-5157, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. For information on electronic payment, contact Angela Clark, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418-5178.

#### SUPPLEMENTARY INFORMATION:

##### I. General

This notice relates to fees for the Commission's review of the rule enforcement programs at the registered futures associations<sup>1</sup> and designated contract markets (DCM), which are referred to as SROs, regulated by the Commission.

##### II. Schedule of Fees

Fees for the Commission's review of the rule enforcement programs at the registered futures associations and DCMs regulated by the Commission:

Entity	Fee amount
Chicago Board of Trade .....	\$146,077

<sup>1</sup> NFA is the only registered futures association.

<sup>5</sup> Letter from Paul Swann, President and Chief Operating Officer of Ice Clear Europe, to David A. Stawick, Secretary, CFTC, dated March 10, 2008, with annexes. ICE Clear Europe intends to clear OTC derivatives transactions to be executed on the IntercontinentalExchange, Inc. (ICE), a U.S. exempt commercial market. See generally CEA § 2(h)(3), 7 U.S.C. 2(h)(3), for a discussion of exempt commercial markets. This activity will bring it within FDICIA's definition of an MCO. See FDICIA § 408(2)(C), 12 U.S.C. 4421(2)(C) (defining OTC derivative instrument to include any agreement, contract, or transaction exempt under CEA Section 2(h)).

<sup>6</sup> Financial Services and Markets Act, 2000 (Eng.). References to sections of the FSMA are hereinafter cited as "Section [ ] FSMA."

<sup>7</sup> Financial Services and Markets Act 2000 (Recognition for Investment Exchanges and Clearing Houses) Regulations (2001) SI 2001/995.

<sup>8</sup> The FSA provides what it describes as a "specialized sourcebook" entitled "Recognised Investment Exchanges and Recognised Clearing Houses (REC) requirements applying to recognised bodies as part of the "FSA Handbook," which is available at <http://fsahandbook.info/FSA/html/handbook/REC>.

<sup>9</sup> The issues raised under Section 409 do not include FSA's supervision of trading, and the Commission has accordingly not reviewed that aspect of FSA's regulatory program in considering the present Order.

<sup>10</sup> Section 2 FSMA.

<sup>11</sup> Section 285 FSMA. ICE Clear Europe received such recognition on May 12, 2008.

<sup>12</sup> See generally the Memorandum of Understanding between the United States CFTC and the United Kingdom FSA Concerning Consultation, Cooperation and the Exchange of Information Related to Market Oversight (November 12, 2006) and other agreements to cooperate referred to therein.

Entity	Fee amount
Chicago Mercantile Exchange ..	124,734
New York Mercantile Exchange	144,893
Kansas City Board of Trade .....	11,119
New York Board of Trade .....	37,662
Minneapolis Grain Exchange ...	28,181
HedgeStreet .....	10,194
Chicago Climate Futures Ex- change .....	8,306
U.S. Futures Exchange .....	14,602
OneChicago .....	15,836
National Futures Association ....	450,419
<b>Total .....</b>	<b>992,022</b>

**III. Background Information**

*A. General*

The Commission recalculates the fees charged each year with the intention of recovering the costs of operating this Commission program.<sup>2</sup> All costs are accounted for by the Commission's Management Accounting Structure Codes (MASC) system, which records each employee's time for each pay period. The fees are set each year based on direct program costs, plus an overhead factor.

*B. Overhead Rate*

The fees charged by the Commission to the SROs are designed to recover program costs, including direct labor costs and overhead. The overhead rate is calculated by dividing total Commission-wide overhead direct program labor costs into the total amount of the Commission-wide overhead pool. For this purpose, direct program labor costs are the salary costs of personnel working in all Commission programs. Overhead costs consist generally of the following Commission-

wide costs: indirect personnel costs (leave and benefits), rent, communications, contract services, utilities, equipment, and supplies. This formula has resulted in the following overhead rates for the most recent three years (rounded to the nearest whole percent): 109 percent for fiscal year 2005, 109 percent for fiscal year 2006, and 140 percent for fiscal year 2007. The increase in the overhead rate for FY 2007 is due to refinement in the agency's reporting capabilities. In past years, the overhead rate did not accurately reflect the cost of benefits. The implementation of a new financial system revealed the inaccuracy and the 2007 overhead rate reflects the correct benefits amount. These overhead rates are applied to the direct labor costs to calculate the costs of oversight of SRO rule enforcement programs.

*C. Conduct of SRO Rule Enforcement Reviews*

Under the formula adopted in 1993 (58 FR 42643, Aug. 11, 1993), which appears at 17 CFR part 1 Appendix B, the Commission calculates the fee to recover the costs of its rule enforcement reviews and examinations, based on the three-year average of the actual cost of performing such reviews and examinations at each SRO. The cost of operation of the Commission's SRO oversight program varies from SRO to SRO, according to the size and complexity of each SRO's program. The three-year averaging computation method is intended to smooth out year-to-year variations in cost. Timing of the Commission's reviews and examinations may affect costs—a review or examination may span two fiscal

years and reviews and examinations are not conducted at each SRO each year. Adjustments to actual costs may be made to relieve the burden on an SRO with a disproportionately large share of program costs.

The Commission's formula provides for a reduction in the assessed fee if an SRO has a smaller percentage of United States industry contract volume than its percentage of overall Commission oversight program costs. This adjustment reduces the costs so that, as a percentage of total Commission SRO oversight program costs, they are in line with the pro rata percentage for that SRO of United States industry-wide contract volume.

The calculation is made as follows: The fee required to be paid to the Commission by each DCM is equal to the lesser of actual costs based on the three-year historical average of costs for that DCM or one-half of average costs incurred by the Commission for each DCM for the most recent three years, plus a pro rata share (based on average trading volume for the most recent three years) of the aggregate of average annual costs of all DCMs for the most recent three years. The formula for calculating the second factor is:  $0.5a + 0.5vt =$  current fee. In this formula, "a" equals the average annual costs, "v" equals the percentage of total volume across DCMs over the last three years, and "t" equals the average annual costs for all DCMs. NFA has no contracts traded; hence, its fee is based simply on costs for the most recent three fiscal years.

This table summarizes the data used in the calculations and the resulting fee for each entity:

	3-year average actual costs	3-year % of volume	2008 Fee (lesser of actual or calculated fee)
Chicago Board of Trade .....	\$146,077	32.4504	\$146,077
Chicago Mercantile Exchange .....	124,734	54.5543	124,734
New York Mercantile Exchange .....	213,577	10.5981	144,893
Kansas City Board of Trade .....	20,918	0.1834	11,119
New York Board of Trade .....	62,615	1.7674	37,662
Minneapolis Grain Exchange .....	55,903	0.0637	28,181
HedgeStreet .....	20,293	0.0132	10,194
Chicago Climate Futures Exchange .....	16,594	0.0026	8,306
US Futures Exchange .....	28,692	0.0711	14,602
OneChicago .....	29,684	0.2764	15,836
Subtotal .....	719,088	.....	541,603
National Futures Association .....	450,419	.....	450,419
<b>Total .....</b>	<b>1,169,507</b>	<b>.....</b>	<b>992,022</b>

An example of how the fee is calculated for one exchange, the

Minneapolis Grain Exchange, is set forth here:

a. Actual three-year average costs equal \$55,903.

<sup>2</sup> See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701. For a

broader discussion of the history of Commission Fees, see 52 FR 46070 (Dec. 4, 1987).

b. The alternative computation is: (.5) (\$55,903) + (.5) (.000637) (\$719,088) = \$28,181.

c. The fee is the lesser of a or b; in this case \$28,181.

As noted above, the alternative calculation based on contracts traded is not applicable to NFA because it is not a DCM and has no contracts traded. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 2005 through 2007 was \$450,419 (one-third of \$1,351,256). The fee to be paid by the NFA for the current fiscal year is \$450,419.

#### Payment Method

The Debt Collection Improvement Act (DCIA) requires deposits of fees owed to the government by electronic transfer of funds (See 31 U.S.C. 3720). For information about electronic payments, please contact Angela Clark at (202) 418-5178 or [aclark@cftc.gov](mailto:aclark@cftc.gov), or see the CFTC Web site at <http://www.cftc.gov>, specifically, <http://www.cftc.gov/cftc/cftcelectronicpayments.htm>.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, requires agencies to consider the impact of rules on small business. The fees implemented in this release affect contract markets and registered futures associations. The Commission has previously determined that contract markets and registered futures associations are not "small entities" for purposes of the Regulatory Flexibility Act. Accordingly, the Acting Chairman, on behalf of the Commission, certifies pursuant to 5 U.S.C. 605(b) that the fees implemented here will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC, on July 24, 2008, by the Commission.

**David Stawick,**

*Secretary of the Commission.*

[FR Doc. E8-17531 Filed 7-30-08; 8:45 am]

BILLING CODE 6351-01-P

## DEPARTMENT OF DEFENSE

### Department of the Army

[Docket ID: USA-2008-0005]

#### Proposed Collection; Comment Request

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department

of the Army announces a proposed revision of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by September 29, 2008.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to U.S. Army Corps of Engineers, 441 G Street, NW., Washington, DC 20314-1000, *Attn:* CECW-CO, or call Department of the Army Reports clearance officer at (703) 428-6440.

*Title, Associated Form, and OMB Number:* Application for a Department of the Army Permit; ENG Form 4345, OMB Control Number 0710-0003.

*Needs and Uses:* Information collected is used to evaluate, as required by law, proposed construction or filing in waters of the United States that result in impacts to the aquatic environment and nearby properties, and to determine if issuance of a permit is in the public interest. Respondents are private landowners, businesses, non-profit organizations, and government agencies.

Respondents also include sponsors of proposed and approved mitigation banks and in-lieu fee programs.

*Affected Public:* Individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal government; State; local or tribal government.

*Annual Burden Hours:* 984,000.

*Number of Respondents:* 89,450.

*Responses Per Respondent:* 1.

*Average Burden Per Response:* 11 hours.

*Frequency:* On occasion.

**SUPPLEMENTARY INFORMATION:** The Corps of Engineers is required by three federal laws, passed by Congress, to regulate construction-related activities in waters of the United States. This is accomplished through the review of applications for permits to do this work.

Dated: July 23, 2008.

**Patricia L. Toppings,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E8-17550 Filed 7-30-08; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Department of the Army

[Docket No. USA-2008-0006]

#### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**DATES:** Consideration will be given to all comments received by September 2, 2008.

*Title, Form, and OMB Number:* Industry Partnership Survey; OMB Control Number 0702-0122.

*Type of Request:* Extension.

*Number of Respondents:* 1,371.

*Responses Per Respondent:* 1.

*Annual Responses:* 357.

*Average Burden Per Response:* 15 minutes.

*Annual Burden Hours:* 343.

*Needs and Uses:* The information collected from this survey will be used to systematically survey and measure industry contractors to better understand how they feel about SDDC's acquisition processes, and to improve the way business is conducted. The SDDC provides global surface deployment command and control and distribution operations to meet National