COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0026, Gross Collection of Exchange-Set Margins for Omnibus Accounts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq., Federal agencies are required to publish 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. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

• Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
• The accuracy of the Commission’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
• Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

• Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Gross Collection of Exchange-Set Margins for Omnibus Accounts, OMB Control Number 3038–0026—Extension

Commission Regulation 1.58 requires that FCMs margin omnibus accounts on a gross, rather than a net, basis. The regulation provides that the carrying FCM need not collect margin for positions traded by a person through an omnibus account in excess of the amount that would be required if the same person, instead of trading through an omnibus account, maintained its own account with the carrying FCM.

The Commission estimates the burden of this collection of information as follows:

• Estimated number of respondents: 125.
• Reports annually by each respondent: 4.
• Total annual responses: 500.
• Estimated average number of hours per response: .08.
• Annual reporting burden: 40.
There are no capital costs or operating and maintenance costs associated with this collection.

This estimate is based on the number of written records maintained in the last three years. Although the burden varies, such records may involve analytical work and analysis, as well as multiple levels of review.

Dated: May 12, 2011.

David A. Stawick,
Secretary of the Commission.

FOR FURTHER INFORMATION CONTACT:
Christopher W. Cummings, Special Counsel, Division of Clearing and Intermediary Oversight, or Barbara S. Gold, Associate Director, Division of Clearing and Intermediary Oversight, or ccummings@cftc.gov, or bgold@cftc.gov, respectively.

I. Authority and Background

In a separate document published elsewhere in today’s Federal Register, the Commission is announcing adoption of new Regulation 4.12(c), which makes available an exemption from CPO registration for certain independent directors or trustees of Commodity ETFs. Relief under each of the new regulations must be claimed by the filing of specified notices and in the case of Regulation 4.13(a)(5), certain additional statements. These filings are similar to filings currently made with NFA by CPOs seeking to claim relief under other provisions of Regulation 4.13.

Section 8a(10) of the Commodity Exchange Act (Act) provides that the Commission may authorize any person to perform any portion of the registration functions under the Act, notwithstanding any other provision of law, in accordance with rules adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to Section 17(j) of the Act and subject to the provisions of the Act applicable to registrations granted by the Commission. Section 17(o)(1) of the Act provides that the Commission may require NFA to perform Commission registration functions in accordance with the Act and NFA rules. In this regard, the Commission notes that NFA has confirmed its willingness to perform certain functions that would otherwise be performed by the Commission.

Upon consideration, the Commission has determined to authorize NFA, 90 days following publication of this Notice and Order in the Federal Register, to perform the following functions: (1) To process notices of claim under Regulation 4.12(c) for exemption from certain Part 4 requirements; (2) to process notices of exemption pursuant to Rule 4.13(a)(5) from registration as a CPO; and (3) to maintain and to serve as the official custodian of records for the claims required for the exemption. As discussed below, these functions involve exemption from certain disclosure, reporting and recordkeeping requirements, and new Regulation 4.13(a)(5), which makes available relief from the requirement to register as a CPO for certain independent directors and trustees of Commodity ETFs. Relief under each of the new regulations must be claimed by the filing of specified notices and in the case of Regulation 4.13(a)(5), certain additional statements. These filings are similar to filings currently made with NFA by CPOs seeking to claim relief under other provisions of Regulation 4.13.

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Upon consideration, the Commission has determined to authorize NFA, 90 days following publication of this Notice and Order in the Federal Register, to perform the following functions: (1) To process notices of claim under the Act for exemption from certain Part 4 requirements; (2) to process notices of exemption pursuant to Rule 4.13(a)(5) from registration as a CPO; and (3) to maintain and to serve as the official custodian of records for the claims required for the exemption. As discussed below, these functions involve exemption from certain disclosure, reporting and recordkeeping requirements.

In the Federal Register release proposing new Regulations 4.12(c) and 4.13(a)(5), the Commission explained the origins and use of the term “Commodity ETF”. 75 FR 54794, at 54795 (Sep. 9, 2010).


As used in this Notice and Order, the term “process” generally refers to the review of a notice for compliance with applicable requirements and, where necessary, advising the CPO of any deficiency related thereto.

8 See, e.g., 62 FR 52088 (Oct. 6, 1997), whereby the Commission delegated to NFA the authority to process various filings made under Part 4.

9 See, e.g., 75 FR 55310 (Sep. 10, 2010); 70 FR 2621 (Jan. 14, 2005); and 68 FR 12664 (Mar. 17, 2003).