

implications of the revisions to Form 8–R. As indicated above, Form 8–R is covered by two OMB control numbers. OMB control number 3038–0023 applies to Form 8–R in connection with registering as a floor broker or as a floor trader, or registering as an associated person of, or being listed as a principal of, a futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, floor trader firm or leverage transaction merchant.<sup>2</sup> OMB control number 3038–0072 applies to Form 8–R in connection with applying to be listed as a principal of a swap dealer or major swap participant.<sup>3</sup>

### I. Revision of Commission Form 8–R

The revised Form 8–R contains several changes that increase the existing information collection burden (currently 1 hour) associated with Form 8–R. The Commission estimates that the changes, which are discussed below, when considered together in aggregate add a total of 0.1 burden hours to the information collection burdens associated with Form 8–R.

First, in the “Completing the Proficiency Requirements Section,” a new paragraph is added describing the obligation of an individual seeking approval as a swap associated person or as a sole-proprietor swap firm to satisfy the Swaps Proficiency Requirements (recently implemented by NFA with the Commission’s approval),<sup>4</sup> and what constitutes satisfaction of those requirements. Second, in the application itself, a new question is added asking whether the applicant has completed the Swaps Proficiency Requirements within the past two years.

The revised Form 8–R also contains several changes that do not alter the information collection burdens associated with Form 8–R. First, the revised form replaces the FBI-mandated

disclosure, for persons whose fingerprints are taken for purposes other than criminal justice, with an updated version of that disclosure. Second, in the “Definition of Terms” section, the definition of “adversary action” is revised to conform the definition to the way the term is used in the form’s “Disciplinary Information Section.” Finally, the words “entity” and “person” are underlined where they occur in the text to indicate that these are terms that are defined in the “Definition of Terms” section.

### II. Comments

In the 60-Day Notice, the Commission provided 60 days for public comment on the extension and revision of the currently approved information collections under OMB control numbers 3038–0023 and 3038–0072 including, among other things, its estimates regarding the modified information collection burdens associated with the amendments to Form 8–R. The Commission did not receive any of its comments that addressed any of its estimates or any other aspect of the information collection.

**Burden Statement:** As explained above, the Commission believes that the revisions to Form 8–R will increase the information collection burdens associated with that Form under OMB control numbers 3038–0023 and 3038–0072.

- OMB control number 3038–0023

The Commission estimates the burden of this collection of information under OMB control number 3038–0023 to be:

**Respondents/Affected Entities:** Users of Form 8–R, specifically (i) associated persons of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, and leverage transaction merchants; floor brokers; (ii) principals of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms, or leverage transaction merchants; (iii) floor brokers; (iv) floor traders; and (v) floor trader order enterers.

**Estimated number of respondents:** 78,055.

**Estimated total annual burden on respondents:** 7,856 hours.

**Frequency of collection:** Periodically.

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

- OMB control number 3038–0072

The Commission further estimates that as a result of the revisions to Form 8–R, the burden of the collection of

information under OMB control number 3038–0072 will be:

**Respondents/Affected Entities:** (1) Users of Form 8–R, specifically swap dealers and major swap participants; and (2) users of Form 8–R, specifically principals of swap dealers and of major swap participants.

**Estimated number of respondents:** 772.

**Estimated total annual burden on respondents:** 683 hours.

**Frequency of collection:** Periodically.

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

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

Dated: September 21, 2020.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2020–21097 Filed 9–23–20; 8:45 am]

**BILLING CODE 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 Information and Regulatory Affairs (OIRA), of 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 October 26, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice’s publication to OIRA, at <https://www.reginfo.gov/public/do/PRAMain>. Please find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the website’s search function. Comments can be entered electronically by clicking on the “comment” button next to the information collection on the “OIRA Information Collections Under Review” page, or the “View ICR—Agency Submission” page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <https://www.reginfo.gov/public/do/PRAMain>.

<sup>2</sup> OMB control number 3038–0023 also covers Commission Forms 7–R, 7–W and 8–T in connection with various registration activities involving floor brokers, floor traders, futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms or leverage transaction merchants, and their principals and associated persons, as applicable. Forms 7–R, 7–W and 8–T were not amended in connection with the revision of Form 8–R.

<sup>3</sup> OMB control number 3038–0072 also covers Commission Forms 7–R, 7–W and 8–T in connection with various registration activities involving swap dealers and major swap participants, and principals thereof. Forms 7–R, 7–W and 8–T were not amended in connection with the revision of Form 8–R.

<sup>4</sup> See, NFA Interpretive Notice entitled “NFA Bylaw 301 And Compliance Rule 2–24: Proficiency Requirements for Swap APs,” effective January 31, 2020.

In addition to the submission of comments to <https://Reginfo.gov> as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the "Commission" or "CFTC") by clicking on the "Submit Comment" box next to the descriptive entry for OMB Control No. 3038-0079, at <https://comments.cftc.gov/FederalRegister/PublicInfo.aspx>.

Or by either of the following methods:

- **Mail:** Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- **Hand Delivery/Courier:** Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include 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, 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 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 Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:**

Jacob Chachkin, Special Counsel, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, (202) 418-5496; email: [jchachkin@cftc.gov](mailto:jchachkin@cftc.gov), and refer to OMB Control No. 3038-0079.

**SUPPLEMENTARY INFORMATION:**

**Title:** Swap Dealer and Major Swap Participant Conflicts of Interest and Business Conduct Standards with Counterparties (OMB Control No. 3038-0079). This is a request for an extension of a currently approved information collection.

**Abstract:** Section 731 of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act, Public Law 111-203, 124 Stat. 1376 (2010)) amended the Commodity Exchange Act (CEA) to add sections 4s(h) and 4s(j)(5) (7 U.S.C. 6s(h) and (j)(5)) which provide the Commission with both mandatory and discretionary rulemaking authority to impose business conduct requirements on swap dealers (SDs) and major swap participants (MSPs) in their dealings with counterparties, including "Special Entities,"<sup>2</sup> and require that each SD and MSP implement conflicts of interest systems and procedures. Congress granted the Commission broad discretionary authority to promulgate business conduct requirements, as appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the CEA.<sup>3</sup>

Accordingly, the Commission has adopted Subpart H of Part 23 of its regulations (EBCS Rules) and Commission regulation 23.605,<sup>4</sup> requiring SDs and MSPs to follow specified procedures and provide specified disclosures in their dealings with counterparties, to adopt and implement conflicts of interest procedures and disclosures, and to maintain specified records related to those requirements.

In addition, the Commission recently finalized certain exceptions from the EBCS Rules for certain foreign swaps in § 23.23(e).<sup>5</sup> To the extent a swap dealer

<sup>2</sup> Such entities are generally defined to include Federal agencies, States and political subdivisions, employee benefit plans as defined under the Employee Retirement Income Security Act of 1974 (ERISA), governmental plans as defined under ERISA, and endowments.

<sup>3</sup> See CEA Section 4s(h)(3)(D) (Business conduct requirements adopted by the Commission shall establish such other standards and requirements as the Commission may determine are appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the CEA.); see also Sections 4s(h)(1)(D), 4s(h)(5)(B) and 4s(h)(6).

<sup>4</sup> 17 CFR part 23, subpart H and 17 CFR 23.605. Subpart H of Part 23 is titled "Business Conduct Standards for Swap Dealers and Major Swap Participants Dealing with Counterparties, Including Special Entities." Subpart H includes the following provisions: § 23.400 (Scope); § 23.401 (Definitions); § 23.402 (General Provisions); § 23.410 (Prohibition on fraud, manipulation and other abusive practices); § 23.430 (Verification of counterparty eligibility); § 23.431 (Disclosures of material information); § 23.432 (Clearing disclosures); § 23.433 (Communications—fair dealing); § 23.434 (Recommendations to counterparties—institutional suitability); § 23.440 (Requirements for SDs acting as advisors to Special Entities); § 23.450 (Requirements for SDs and MSPs acting counterparties to Special Entities); and § 23.451 (Political contributions by certain SDs). § 23.605 is titled Conflicts of interest policies and procedures.

<sup>5</sup> 17 CFR part 23.23(e). See Cross-Border Application of the Registration Thresholds and

or major swap participant avails itself of one or more of these exceptions, when effective, § 23.23(h)(1) imposes information collection requirements in lieu of such requirements in the EBCS Rules.<sup>6</sup>

The recordkeeping and third-party disclosure obligations imposed by the regulations are essential to ensuring that SDs and MSPs develop and maintain procedures and disclosures required by the CEA and Commission regulations.<sup>7</sup>

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 July 20, 2020, 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, 85 FR 43821 ("60-Day Notice"). The Commission did not receive any relevant comment on the 60-Day Notice.

**Burden Statement:** The Commission is revising its estimate of the burden for this collection based on the current number of registered SDs.<sup>8</sup> The respondent burden for this collection is estimated to be as follows:

**Estimated Number of Respondents:** 109.

**Estimated Average Burden Hours per Respondent:** 2352.9 hours.<sup>9</sup>

**Estimated Total Annual Burden Hours:** 256,470 hours.<sup>10</sup>

Certain Requirements Applicable to Swap Dealers and Major Swap Participants, 85 FR 56924 (Sep. 14, 2020).

<sup>6</sup> 17 CFR part 23.23(h)(1).

<sup>7</sup> Reporting under Commission regulation 23.451 (Political contributions by certain SDs) is optional and it is unknown how many registrants, if any, will engage in such reporting and how much burden, if any, will be incurred. Nevertheless, the Commission is providing an estimate of the regulation's burden for purposes of the PRA below.

<sup>8</sup> Specifically, the change for the renewal is based solely on the increased number of entities registered as SDs (102 at the last renewal in 2017 and 109 as of September 9, 2020), since the burden hour per respondent remains the same, at approximately 2352.9 hours. The total annual burden estimate in the 60-Day Notice was based on 107 registered SDs, but, as noted above, this number has increased to 109. (And just as before, there are no entities currently registered as MSPs.)

<sup>9</sup> The Commission expects the paperwork burden of § 23.23(h)(1), where applicable, in relation to exceptions from the EBCS Rules in § 23.23(e) would be less than that of the EBCS Rules. However, in an effort to be conservative, because the Commission does not know how many swap dealers and/or major swap participants will choose to avail themselves of the exceptions in § 23.23(e) and for how many of their swaps, the Commission is not reducing the estimated burden of these rules to reflect the availability of such exceptions.

<sup>10</sup> The total annual burden estimated in the 60-Day Notice, at 251,765 hours, was based on 107 entities registered as SDs. (See also fn.8.) Since this number has increased to 109, the current total annual burden, at 256,470 hours, reflects this increase.

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

*Frequency of Collection:* Ongoing.

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

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

Dated: September 21, 2020.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

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## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 10:30 a.m. EDT, Wednesday, September 30, 2020.

**PLACE:** This meeting will be convened on a conference call.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

Enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.cftc.gov/>.

**CONTACT PERSON FOR MORE INFORMATION:** Christopher Kirkpatrick, 202-418-5964.

**Authority:** 5 U.S.C. 552b.

Dated: September 21, 2020.

**Christopher Kirkpatrick,**

*Secretary of the Commission.*

[FR Doc. 2020-21131 Filed 9-22-20; 11:15 am]

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## COUNCIL ON ENVIRONMENTAL QUALITY

### Emergencies and the National Environmental Policy Act Guidance

**AGENCY:** Council on Environmental Quality (CEQ).

**ACTION:** Notice.

**SUMMARY:** On September 14, 2020, the Council on Environmental Quality (CEQ) issued guidance, CEQ-NEPA-2020-01, in a memorandum to the heads of Federal departments and agencies (agencies) to assist agencies with compliance with the National Environmental Policy Act (NEPA) during emergencies. The CEQ regulations implementing NEPA provide for alternative arrangements during emergencies when an agency's action is likely to have significant effects and would require preparation of an environmental impact statement. This guidance also addresses compliance with NEPA when the action

is unlikely to have significant effects and might require preparation of an environmental assessment or application of a categorical exclusion.

**DATES:** This guidance is effective on September 14, 2020.

**FOR FURTHER INFORMATION CONTACT:**

Thomas Sharp, Principal Deputy Associate Director for NEPA, 202-395-5750, [Thomas.L.Sharp2@ceq.eop.gov](mailto:Thomas.L.Sharp2@ceq.eop.gov).

**SUPPLEMENTARY INFORMATION:**

**Guidance No. CEQ-NEPA-2020-01**

*Memorandum for Heads of Federal Departments and Agencies*

*From:* Mary B. Neumayr, Chairman.

*Subject:* Emergencies and the National Environmental Policy Act Guidance.

This guidance<sup>1</sup> updates and replaces previous guidance from the Council on Environmental Quality (CEQ) on the environmental review of proposed emergency response actions under the National Environmental Policy Act, 42 U.S.C. 4321-4347 (NEPA).<sup>2</sup> Federal departments and agencies (agencies) should distribute this guidance as part of their general guidance on emergency actions to agency offices that are or may become involved in developing and taking actions in response to emergencies.

As agencies respond to situations involving immediate threats to human health or safety, or immediate threats to valuable natural resources, they must consider whether there is sufficient time to follow the procedures for environmental review established in the CEQ National Environmental Policy Act Implementing Regulations, 40 CFR parts 1500-1508 (CEQ NEPA regulations),<sup>3</sup> and their agency NEPA procedures.

This guidance does not establish new requirements. CEQ established the regulation addressing alternative arrangements in emergency circumstances in 1978,<sup>4</sup> and amended it in 2020 to clarify that it provides for alternative arrangements for compliance with NEPA section 102(2)(C) (42 U.S.C. 4332(C)).<sup>5</sup> 40 CFR 1506.12. CEQ has approved, and agencies have applied successfully, numerous alternative arrangements to allow a wide range of

<sup>1</sup> The contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This memorandum is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

<sup>2</sup> This guidance replaces guidance issued by CEQ on September 29, 2016, May 12, 2010, and September 8, 2005. CEQ rescinds the prior guidance.

<sup>3</sup> <https://ceq.doe.gov/laws-regulations/regulations.html>.

<sup>4</sup> 43 FR 55977, Nov. 29, 1978.

<sup>5</sup> 85 FR 43304, July 16, 2020.

proposed actions in emergency circumstances including natural disasters, catastrophic wildfires, threats to species and their habitat, economic crisis, infectious disease outbreaks, potential dam failures, and insect infestations.<sup>6</sup>

Attachment 1 provides agencies with a step-by-step process for determining the appropriate path forward for the NEPA environmental review of all actions proposed in response to an emergency situation.

Environmental Impact Statements

The CEQ regulations, at 40 CFR 1506.12, provide for alternative arrangements for NEPA compliance in emergency situations when the agency proposal has the potential for significant environmental impacts and would require an environmental impact statement (EIS) if the situation were not an emergency:

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of the regulations in [parts 1500-1508], the Federal agency taking the action should consult with the Council about alternative arrangements for compliance with section 102(2)(C) of NEPA. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

Agencies develop these alternative arrangements, based on emergency-specific facts and circumstances, during consultation with CEQ. The alternative arrangements developed by an agency address the actions necessary to respond immediately to the impacts of an emergency. The long-term response to the emergency, including recovery actions, remains subject to the regular NEPA process set forth in the CEQ NEPA regulations.

Alternative arrangements do not waive the requirement to comply with the statute, but establish an alternative means for NEPA compliance. Alternative arrangements also do not complete or alter other environmental requirements (except as provided by other environmental statutes or regulations); however, engaging other resource and regulatory agencies about other environmental requirements during development and implementation of alternative arrangements can facilitate meeting other compliance requirements. Final agency action taken pursuant to alternative arrangements for compliance with NEPA under 40 CFR 1506.12 may

<sup>6</sup> A synopsis of previous alternative arrangements is available at [https://ceq.doe.gov/nepa-practice/alternative\\_arrangements.html](https://ceq.doe.gov/nepa-practice/alternative_arrangements.html).