

(OMB Control No. 3038–0092). This is a request for extension of a currently approved information collection.

**Abstract:** Section 4d(c) of the Commodity Exchange Act (“CEA”), as amended by the Dodd-Frank Wall Street and Reform Consumer Protection Act (“Dodd-Frank Act”), directs the Commission to require futures commission merchants (“FCMs”) to implement conflict of interest procedures that address such issues the Commission determines to be appropriate. Similarly, section 4s(j)(5) of the CEA, as added by the Dodd-Frank Act, requires swap dealers (“SDs”) and major swap participants (“MSPs”) to implement conflict of interest procedures that address such issues the Commission determines to be appropriate. Section 4s(j)(5) also requires SDs and MSPs to ensure that any persons providing clearing activities or making determinations as to accepting clearing customers are separated by appropriate informational partitions from persons whose involvement in pricing, trading, or clearing activities might bias their judgment or contravene the core principle of open access. Section 4s(j)(6) of the CEA prohibits a SD or MSP from adopting any process or taking any action that results in any unreasonable restraint on trade or imposes any material anticompetitive burden on trading or clearing, unless necessary or appropriate to achieve the purposes of the Act. Section 2(h)(1)(B)(ii) of the CEA requires that derivatives clearing organization (“DCOs”) rules provide for the nondiscriminatory clearing of swaps executed bilaterally or through an unaffiliated designated contract market or swap execution facility.

To address these provisions, the Commission promulgated regulations that prohibit arrangements involving FCMs, SDs, MSPs, and DCOs that would (a) disclose to an FCM, SD, or MSP the identity of a customer’s original executing counterparty (§§ 1.72(a), 23.608(a), and 39.12(a)(1)(vi)); (b) limit the number of counterparties with whom a customer may enter into a trade (§§ 1.72(b), 23.608(b), and 39.12(a)(1)(vi)); (c) restrict the size of the position a customer may take with any individual counterparty, apart from an overall credit limit for all positions held by the customer at the FCM (§§ 1.72(c), 23.608(c), and 39.12(a)(1)(vi)); (d) impair a customer’s access to execution of a trade on terms that have a reasonable relationship to the best terms available (§§ 1.72(d), 23.608(d), and 39.12(a)(1)(vi)); or (e) prevent compliance with specified time frames for acceptance of trades into clearing set

forth in 1.74(b), 23.610(b), or 39.12(b)(7) (§§ 1.72(e), 23.608(e), and 39.12(a)(1)(vi)). Additionally, the Commission requires, through regulation 39.12(b)(7)(i)(B), DCOs to coordinate with clearing members to establish prompt processing of trades. Regulations 1.74(a) and 23.610(a) require reciprocal coordination by FCMs, SDs, and MSPs that are clearing members.

Under the above regulations, SDs, MSPs, FCMs, and DCOs are required to develop and maintain written customer clearing documentation and trade processing procedures. Maintenance of contracts, policies, and procedures is prudent business practice. All SDs, MSPs, FCMs, and DCOs maintain documentation consistent with these regulations. The regulations are crucial both for effective risk management and for the efficient operation of trading venues among SDs, MSPs, FCMs, and DCOs. Each of these entities has a general recordkeeping obligation for these requirements under the Commission’s regulations (§ 39.20 for DCOs; § 23.606 for SDs and MSPs; and § 1.73 for FCMs).

The information collection burden arising from the regulations primarily is restricted to the costs associated with the affected registrants’ obligation to maintain records related to clearing documentation between the customer and the customer’s clearing member, and trade processing procedures between DCOs and FCMs, SDs, and MSPs. The information collection obligations are necessary to implement certain provisions of the CEA, including ensuring that registrants exercise effective risk management and for the efficient operation of trading venues among SDs, MSPs, FCMs, and DCOs.

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 August 17, 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 50013 (“60-Day Notice”). The Commission did not receive any comments on the 60-Day Notice.

**Burden Statement:** The respondent burden for this collection is estimated to be as follows:

**Estimated Number of Respondents:** 183.

**Estimated Average Burden Hours per Respondent:** 40.

**Estimated Total Annual Burden Hours:** 7,320.

**Frequency of Collection:** Daily, annually, or as needed.

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

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

Dated: October 21, 2020.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2020–23671 Filed 10–23–20; 8:45 am]

**BILLING CODE 6351–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities: Notice of Intent to Extend Collection 3038–0062: Off-Exchange Foreign Currency Transactions

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (“CFTC” or “Commission”) is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), 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, and to allow 60 days for public comment. This notice solicits comments on the collection of information provided for by Part 5 of the Commission’s regulations under the Commodity Exchange Act (“CEA”) relating to off-exchange foreign currency transactions.

**DATES:** Comments must be submitted on or before December 28, 2020.

**ADDRESSES:** You may submit comments, identified by “OMB Control No. 3038–0062” by any of the following methods:

- The Agency’s website, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.

- **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.

Please submit your comments using only one method. 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>.

**FOR FURTHER INFORMATION CONTACT:**

Gregory Scopino, Special Counsel, Division of Swap Dealer & Intermediary Oversight, Commodity Futures Trading Commission, (202) 418-5175; email: [gscopino@cftc.gov](mailto:gscopino@cftc.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of Information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes 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 the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed 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. 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.

*Title:* Off-Exchange Foreign Currency Transactions (OMB Control No. 3038-0062). This is a request for an extension of a currently approved information collection.

*Abstract:* Part 5 of the Commission's regulations under the CEA establishes rules applicable to retail foreign exchange dealers ("RFEDs"), futures commission merchants ("FCMs"), introducing brokers ("IBs"), commodity trading advisors ("CTAs"), and commodity pool operators ("CPOs") engaged in the offer and sale of off-exchange forex contracts to retail customers. Specifically:

- Regulation 5.5 requires RFEDs, FCMs, and IBs to distribute risk disclosure statements to new retail forex customers.
- Regulation 5.6 requires RFEDs and FCMs to report any failures to maintain the minimum capital required by Commission regulations.
- Regulation 5.8 requires RFEDs and FCMs to calculate their total retail forex obligation.
- Regulation 5.10 requires RFEDs to maintain and preserve certain risk assessment documentation.
- Regulation 5.11(a)(1) requires RFEDs to submit certain risk assessment documentation to the Commission within 60 days of the effective date of their registration.

- Regulation 5.11(a)(2) requires RFEDs to submit certain financial documentation to the Commission within 105 calendar days of the end of each fiscal year. RFEDs must also submit additional information, if requested, regarding affiliates' financial impact on an RFED's organizational structure.

- Regulation 5.12(a) requires RFED applicants to submit a Form 1-FR-FCM concurrently with their registration application.

- Regulation 5.12(b) requires registered RFEDs to file a Form 1-FR-FCM on a monthly and annual basis.

- Regulation 5.12(g) states that, in the event that an RFED cannot file its Form 1-FR-FCM for any period within the time specified in Regulation 5.12(b), the RFED may file an application for an extension of time with its self-regulatory organization.

- Regulation 5.13(a) requires RFEDs and FCMs to provide monthly account statements to their customers.

- Regulation 5.13(b) requires RFEDs and FCMs to provide confirmation statements to their customers within one business day after the execution of any retail forex or forex option transaction.

- Regulation 5.14 requires RFEDs and FCMs to maintain current ledgers of each transaction affecting its asset, liability, income, expense and capital accounts.

- Regulation 5.18(g) requires each RFED, FCM, CPO, CTA, and IB subject to part 5 to maintain a record of all communications received that give rise to possible violations of the Act, rules, regulations or orders thereunder related to their retail forex business.

- Regulation 5.18(i) requires each RFED and FCM to prepare and maintain on a quarterly basis a calculation of non-discretionary retail forex customer accounts open for any period of time during the quarter that were profitable, and the percentage of such accounts that were not profitable.

- Regulation 5.18(j) requires the CCO of each RFED and FCM to certify annually that the firm has in place processes to establish, maintain, review, modify and test policies and procedures reasonably designed to achieve compliance with the Act, rules, regulations and orders thereunder.

- Regulation 5.19 requires each RFED, FCM, CPO, CTA, and IB subject to part 5 to submit to the Commission copies of any dispositive or partially dispositive decision for which a notice of appeal has been filed in any material legal proceeding (1) to which the firm is a party to or to which its property or assets is subject with respect to retail

forex transactions, or (2) instituted against any person who is a principal of the firm arising from conduct in such person's capacity as a principal of that firm.

- Regulation 5.20 requires RFEDs, FCMs and IBs to submit documentation requested pursuant to certain types of special calls by the Commission.

- Regulation 5.23 requires RFEDs, FCMs and IBs to notify the Commission regarding bulk transfers and bulk liquidations of customer accounts.

The rules establish reporting and recordkeeping requirements that are necessary to implement the provisions of the Food, Conservation, and Energy Act of 2008<sup>1</sup> regarding off-exchange transactions in foreign currency with members of the public. The rules are intended to promote customer protection by providing safeguards against irresponsible or fraudulent business practices.<sup>2</sup>

With respect to the 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.

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, 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>3</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 <http://www.cftc.gov> that it may

<sup>1</sup> Public Law 110-246, 122 Stat. 1651, 2189-220 (2008).

<sup>2</sup> See Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 FR 55410, 55416 (Sept. 10, 2010).

<sup>3</sup> 17 CFR 145.9.

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.

**Burden Statement:** The Commission is revising its estimate of the burden for this collection for 146 respondents, which include RFEDs, FCMs, IBs, CPOs, and CTAs. The respondent burden for this collection is estimated to be as follows:

**Estimated Number of Respondents:** 146.

**Estimated Average Burden Hours per Respondent:** 2,865.<sup>4</sup>

**Estimated Total Annual Burden Hours:** 418,286.

**Frequency of Collection:** As applicable.

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

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

Dated: October 21, 2020.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2020-23669 Filed 10-23-20; 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 November 25, 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>.

<sup>4</sup> This figure has been rounded to the nearest one: 2,864.972 to 2865.

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>.

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. 3038-0097, 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:** Megan Wallace, Senior Special Counsel,

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

Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418-5150; email: [mwallace@cftc.gov](mailto:mwallace@cftc.gov), and refer to OMB Control No. 3038-0097.

**SUPPLEMENTARY INFORMATION:** *Title:* Process for Review of Swaps for Mandatory Clearing (OMB Control No. 3038-0097). This is a request for extension of a currently approved information collection.

**Abstract:** The Commodity Exchange Act and Commission regulations require a derivatives clearing organization ("DCO") that wishes to accept a swap for clearing to be eligible to clear the swap and to submit the swap to the Commission for a determination as to whether the swap is required to be cleared. Commission Regulation 39.5 sets forth the process for these submissions. The Commission will use the information in this collection to determine whether a DCO that wishes to accept a swap for clearing is eligible to clear the swap and whether the swap should be required to be cleared.

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 August 17, 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 50012 ("60-Day Notice") The Commission did not receive any comments on the 60-Day Notice.

**Burden Statement:** The respondent burden for this collection is estimated to be as follows:

**Estimated Number of Respondents:** 15.

**Estimated Average Burden Hours per Respondent:** 40.

**Estimated Total Annual Burden Hours:** 600.

**Frequency of Collection:** On occasion.<sup>2</sup>

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

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

Dated: October 21, 2020.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

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<sup>2</sup> While the 60-day Notice indicates "daily, annual, and on occasion," the frequency of information collection is only "on occasion" based on current data.