2. Amendments to Regulation 43.4

In the Final Rule, the Commission estimated that the amendments would reduce the number of mirror swaps SDRs would need to publicly disseminate by 100 reports per each SDR, for an aggregate burden hour reduction of 20.10 hours. In addition, the Commission estimated that the aggregate reporting burden total for § 43.4, as adjusted for the reduction in reporting by SDRs of mirror swaps, is as follows:

- Estimated Number of Respondents: 3.
- Estimated Number of Reports per Respondent: 1,499,900.
- Average Number of Hours per Report: 0.009.

- Estimated Gross Annual Reporting Burden: 40,497.

The Commission did not include any burden estimates in the Proposal related to the modification or maintenance of systems in order to be in compliance with the proposed amendments to § 43.4. To avoid double-counting, the Commission included the costs associated with updates to § 43.4 in the estimates for § 43.3 discussed above, as they would be captured in the costs of updating systems based on the list of swap data elements in part 43.

Burden Statement: Provisions of CFTC Regulations 43.3, 43.4, and 43.6 result in information collection requirements within the meaning of the PRA. With respect to the ongoing reporting and recordkeeping burdens associated with swaps, the CFTC is revising its estimate of the burden of this collection (excluding estimates related to the Commission’s block trade regulation, which is not affected by the final rulemaking).

The Commission believes that SDRs, MSPs, SEFs, DCMs, DCOs, and non-SD/MSP/DCO counterparties incur an annual time-burden of 771,831 hours. This time-burden represents a proportion of the burden respondents incur to operate and maintain their swap data recordkeeping and reporting systems. The respondent burden for this collection (excluding estimates related to the Commission’s block trade regulation) is estimated to be as follows:

- Estimated Number of Respondents: 1,732.
- Estimated Average Burden Hours per Respondent: 445.
- Estimated Total Annual Burden Hours: 771,831 hours.

- Frequency of Collection: Ongoing.
- Capital or Operating and Maintenance Costs: $85,849,000.9
- Authority: 44 U.S.C. 3501 et seq.
- Dated: March 2, 2021.
- Robert Sidman,
- Deputy Secretary of the Commission.

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 April 7, 2021.

ADDRESSES: Written comments and recommendations for the information collection should be submitted within 30 days of this notice’s publication to OIRA, at https://www.reginfo.gov/public/do/PRAMain.

**In the Proposal, the Commission omitted the aggregate reporting burden for proposed § 43.3 and § 43.4 in the proposed PRA estimates for all of part 43 (excluding estimates related to the Commission’s block trade regulation, which is not affected by the final rulemaking). In the Final Rule, the Commission included PRA estimates for final § 43.3 and § 43.4 in the preamble because these are the only sections of part 43 affected by the final rulemaking.**

**Attachment A to the supporting statement for the Proposal only showed the changes in the burden estimates for § 43.3 and § 43.4 for the Proposal. For the Final Rule, the Commission revised Attachment A to the supporting statement that was filed with OMB to include aggregate burden estimates for all requirements in the collection (excluding estimates related to the Commission’s block trade regulation, which burden estimates for the block trade regulation are not affected by the final rulemaking). In addition, in the Final Rule, the Commission revised the information collection to include burden estimates for one-time costs that SDRs, SEFs, DCMs, and reporting counterparties could incur to modify their systems to adopt the changes to part 43, as well as burden estimates for these entities to perform any annual maintenance or adjustments to reporting systems related to the changes. The estimates in the supporting statements for the Final Rule are consistent with the estimates shown in the Burden Statement above (e.g., the supporting statement for the Final Rule reflects that there are 1,732 respondents and that the total annual number of burden hours across all respondents is 771,831.)

**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 publicly available. 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. 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: Meghan Tente, Division of Data, Commodity Futures Trading Commission, (202) 418–5785, email: mtente@cftc.gov, and refer to OMB Control No. 3038–0096.

SUPPLEMENTARY INFORMATION:

Title: Swap Data Recordkeeping and Reporting Requirements (OMB Control No. 3038–0096). This is a request for comment on revision of a currently approved information collection.

Abstract: The collection of information is needed to ensure that the CFTC and other regulators have access to swap data as required by the Commodity Exchange Act, as amended to swap data as required by the CFTC and other regulators have access to data as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). The Dodd-Frank Act directed the CFTC to adopt rules providing for the reporting of data relating to swaps.

On September 17, 2020, the Commission adopted a rulemaking amending its part 45 regulations. In the release accompanying the final rule, the Commission included some estimated costs and burdens that were not included in the Proposal and made corrections to some of its previous estimates. The Commission explains these cost and burden estimates 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. On December 2, 2020, the Commission published in the Federal Register notice of the proposed revision of this information collection and provided 60 days for public comment on the proposed revision, 85 FR 77435 (“60-Day Notice”). The Commission did not receive any comments on the 60-Day Notice.

1. Amendments to Regulation 45.3

Amended § 45.3 creates costs for swap data repositories (“SDRs”), swap execution facilities (“SEFs”), designated contract markets (“DCMs”), and reporting counterparties to update systems for reporting required swap data collection. For the Proposal, the Commission estimated SDRs, SEFs, DCMs, and reporting counterparties would incur a one-time initial burden of 10 hours per entity to modify their systems to adopt the changes, for a total estimated hours burden of 17,320 hours. The cost per entity was estimated to be $722.30 for a total cost across entities of $1,251,024. The Commission additionally estimated 5 hours per entity annually to perform any needed maintenance or adjustments to reporting systems, at a cost of $361.15 per entity and $625,512 across entities. The Commission re-estimated the analysis in the final rule and instead used a wage estimate of between $48 and $101 per hour and revised its estimate of the one-time initial cost per SDR to be in a range of $144,000 to $1,010,000 for PRA purposes, based on 3,000 to 10,000 hours of work per SDR. Using these revised estimates, the Commission estimated an average estimated cost of $577,000 per SDR to update their systems, or estimated capital/start-up costs of $1,731,000 across all 3 SDRs.

With regard to reporting entities, the PRA section of the Proposal inadvertently did not include any estimates of initial costs to update systems for SEFs, DCMs, and reporting counterparties. In the final rule, the Commission estimated that SEFs, DCMs, and reporting counterparties will incur a one-time initial cost per reporting entity in a range of $24,000 to $73,225 per reporting entity, with each reporting entity spending approximately 500 to 725 hours on the updates. Rather than $24,000 to $73,225 per reporting entity, the Proposal made corrections to some of its previous costs and burdens that were not included in the Proposal and made corrections to some of its previous estimates. The Commission explains these cost and burden estimates 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. On December 2, 2020, the Commission published in the Federal Register notice of the proposed revision of this information collection and provided 60 days for public comment on the proposed revision, 85 FR 77435 (“60-Day Notice”). The Commission did not receive any comments on the 60-Day Notice.

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3 The Commission proposed the amendments to Part 45 in February 2020. Swap Data Recordkeeping and Reporting Requirements, 75 FR 21578 (Apr. 17, 2020) (the “Proposal”). The final rule was published in the Federal Register, 85 FR 75503 (Nov. 25, 2020).

4 The Commission re-assessed its cost estimates in the final rule and used revised estimates, based on 3,000 to 10,000 hours of work per SDR. Using these revised estimates, the Commission estimated an average estimated cost of $577,000 per SDR to update their systems, or estimated capital/start-up costs of $1,731,000 across all 3 SDRs.

1 The PRA section of the Proposal included one-time and ongoing burden hour estimates for entities to modify their systems. The associated cost estimates referenced above were included in the related Supporting Statement filed with OMB for the Proposal.


3 The Commission proposed the amendments to Part 45 in February 2020. Swap Data Recordkeeping and Reporting Requirements, 75 FR 21578 (Apr. 17, 2020) (the “Proposal”). The final rule was published in the Federal Register, 85 FR 75503 (Nov. 25, 2020).

4 The Commission re-assessed its cost estimates in the final rule and used revised estimates, based on 3,000 to 10,000 hours of work per SDR. Using these revised estimates, the Commission estimated an average estimated cost of $577,000 per SDR to update their systems, or estimated capital/start-up costs of $1,731,000 across all 3 SDRs.

5 Hourly wage rates for this aspect came from the Software Developers and Programmers category of the May 2019 National Employment and Wage Estimates Report produced by the U.S. Bureau of Labor Statistics, available at https://www.bls.gov/oes/current/oes_nat.htm. The 25th percentile was used for the lower range and the 90th percentile was used for the upper range ($36.89 and $78.06, respectively). Each number was multiplied by an adjustment factor of 1.3 for overhead and benefits (rounded to the nearest whole dollar) which is in line with adjustment factors the CFTC has used for similar purposes in other final rules adopted under the Dodd-Frank Act. See, e.g., 77 FR at 2173 (using an adjustment factor of 1.3 for overhead and other benefits). These estimates are intended to capture and reflect U.S. developer hourly rates market participants are likely to pay when complying with the changes. Individual entities may, based on their circumstances, incur costs substantially greater or less than the estimated averages.

6 The lower estimate of $24,000 represents 500 working hours at the $48 rate. The higher estimate of $1,010,000 represents 10,000 working hours at the $101 rate. The PRA section of the final rule incorrectly stated that the $1,010,000 estimate at the higher end of the range was based on 5,000 working hours. However, in response to a comment indicating that the commenter expected its costs to be $8,000 to $10,000 developer hours, the Commission expanded the range of potential costs per SDR to between $144,000 and $1,010,000 for PRA purposes.

7 The lower estimate of $24,000 represents 500 working hours at the $48 rate. The higher estimate of $1,010,000 represents 10,000 working hours at the $101 rate. The PRA section of the final rule incorrectly stated that the $1,010,000 estimate at the higher end of the range was based on 5,000 working hours. However, in response to a comment indicating that the commenter expected its costs to be $8,000 to $10,000 developer hours, the Commission expanded the range of potential costs per SDR to between $144,000 and $1,010,000 for PRA purposes.

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Proposal, in which the Commission proposed requiring derivatives clearing organization (“DCO”) counterparties to report the information as well. The frequency of the report will not change for SD/MSP reporting counterparties, but the Commission estimated SD/MSP/DCO reporting counterparties would require more time to prepare each report. However, since all of this information is reported electronically, the Commission expected the increase per report to be small, from .003 to .004 hours per report. Since the Commission is not requiring DCO reporting counterparties to report the information, the Commission revised its estimate to .0035 hours per report. As a result, in the final rule the aggregate burden under § 45.4 was estimated to apply to 1,705 respondents, with 97,341 reports per respondent, .0035 average hours per report, and a gross annual reporting burden of 581,419 hours.

Amended § 45.4 creates costs for SDRs and reporting counterparties to update systems for reporting required swap data. For the Proposal, the Commission estimated SDRs and reporting counterparties would incur a one-time initial burden of 10 hours per entity to modify their systems to adopt the changes to § 45.4, for a total estimated hours burden of 17,050 hours. The cost per entity was estimated to be $72.23 per entity or a total cost across entities of $1,226,021. The Commission additionally estimated 5 hours per entity annually to perform any needed maintenance or adjustments to reporting systems. The related Supporting Statement filed with OMB for the Proposal estimated that the cost per entity for the one-time initial burden would be $72.23 for a total cost across entities of $67,896, and an additional cost of $72 per entity and $67,680 across entities annually to perform any needed maintenance or adjustments to reporting systems. The PRA section of the final rule did not make any changes to the Commission’s burden hour estimates for SDRs and reporting counterparties to modify their systems to adopt the changes to final § 45.5 in connection with either its estimates of either the one-time initial burden estimate or the burden of ongoing maintenance or adjustments to reporting systems. The final rule also did not change the estimated cost per entity of $72.23 per entity or a total cost across entities of $67,896 in connection with the Commission’s estimate of the one-time initial burden costs for SDRs and reporting counterparties required to generate UTIs. However, the PRA section of the final rule corrected the estimated cost per entity for ongoing maintenance or adjustment to reporting systems in the supporting statement for the Proposal from a cost of $72 per entity and $67,680 across entities to a cost of $72.23 per entity and $67,896 across entities for final § 45.5.

Burden Statement: Provisions of CFTC Regulations 45.2, 45.3, 45.4, 45.5, 45.6, 45.10 and 45.14 result in information collection requirements within the meaning of the PRA. With respect to the ongoing reporting and recordkeeping burdens associated with swaps, the CFTC is revising its estimate of the burden of this collection. The Commission believes that SEFs, DCMs, DCOs, SDRs, swap dealers ("SDs"), major swap participants ("MSPs"), and non-SD/MSP/DCO counterparties incur an annual time-burden of 1,226,021 hours. This time-burden represents a proportion of the burden respondents incur to operate and maintain their swap data recordkeeping and reporting systems. The respondent burden for this collection is estimated to be as follows: Respondents/Affected Entities: SDs, MSPs, SDRs, DCMs, SEFs, and other counterparties to a swap transaction (i.e., non-SD/MSP/DCO counterparties).

Estimated Number of Respondents: 1,732.

Estimated Average Burden Hours per Respondent: 708.

Estimated Total Annual Burden Hours: 1,226,021 hours.

Frequency of Collection: Ongoing.

Capital or Operating and Maintenance Costs: $51,961,428.

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