

**SUPPORTING STATEMENT FOR NEW AND  
REVISED INFORMATION COLLECTIONS  
OMB CONTROL NUMBER 3038-0009**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The reporting rules are contained in parts 15 through 21 of the Commodity Futures Trading Commission's (CFTC or Commission) regulations.<sup>1</sup> Together, the reporting rules are structured to ensure that the Commission receives adequate information to carry out its market and financial surveillance programs.<sup>2</sup> The reporting rules are implemented by the Commission partly pursuant to the authority of sections 4a, 4c(b), 4g, and 4i of the Commodity Exchange Act (CEA or Act).<sup>3</sup> Section 4a of the Act permits the Commission to set, approve exchange-set, and enforce speculative position limits.<sup>4</sup> Section 4c(b) of the Act gives the Commission plenary authority to regulate transactions that involve commodity options.<sup>5</sup> Section 4g of the Act imposes reporting and recordkeeping obligations on registered entities, and requires each registrant, whether a futures commission merchant (FCM), introducing broker, floor broker, or floor trader, to file such reports as the Commission may require on proprietary and customer positions executed on any board of trade in the United States or elsewhere.<sup>6</sup> Lastly, section 4i of the Act requires the filing of such reports as the Commission may require when positions made or obtained on designated contract markets or derivatives transaction execution facilities equal or exceed Commission-set levels.<sup>7</sup>

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<sup>1</sup> 17 CFR parts 15 to 21.

<sup>2</sup> The market surveillance programs analyze market information to detect and prevent market disruptions and enforce speculative position limits. The financial surveillance programs combine market information with financial data to assess the financial risks presented by large customer positions to Commission registrants and clearing organizations. See 69 FR 76392 (December 21, 2004).

<sup>3</sup> 7 U.S.C. 1 et seq.

<sup>4</sup> 7 U.S.C. 6a.

<sup>5</sup> 7 U.S.C. 6c(b).

<sup>6</sup> 7 U.S.C. 6g.

<sup>7</sup> 7 U.S.C. 6i. In addition, CEA section 8a(5) is an enabling provision that grants to the Commission the authority to adopt regulations that in its judgment are reasonably necessary to accomplish any of the purposes of the Act. 7 U.S.C. 12a(5). Pursuant to CEA section 3(b), the Act seeks to ensure the financial integrity of regulated transactions and to prevent price manipulation and other disruptions to market integrity. 7 U.S.C. 5(b). Collectively, these

As mentioned above, the Commission's reporting rules are contained in parts 15 to 21 of the Commission's regulations (17 CFR part 15 to 21). The Commission published a notice of proposed rulemaking in the Federal Register on June 22, 2007 to amend part 21 of the Commission's regulations (17 CFR part 21).<sup>1</sup> That notice of rulemaking, among other things, proposed to add information regarding futures contracts exchanged for commodities or other derivatives and initiated deliveries under contracts to the types of information which must be furnished upon special call pursuant to Commission regulation 21.02 (17 CFR 21.02). The proposed amendments were adopted by the Commission on August 31, 2007.<sup>2</sup>

Commission regulation 21.02 (17 CFR 21.02) applies to futures commission merchants (FCMs), introducing brokers (IBs), members of contract markets and foreign brokers. FCMs, IBs, and members of contract markets are subject to substantial reporting and recordkeeping requirements under Commission regulation 1.35 (17 CFR 1.35) and other provisions of the regulations. Likewise, foreign brokers are typically subject to substantial inspection and recordkeeping requirements by home regulators.<sup>3</sup> Also, in addition to FCMs and members of reporting markets, foreign brokers are subject to reporting requirements for special accounts under part 17 of the Commission's regulations (17 CFR part 17) that are comparable to the special call reporting requirements of Commission regulation 21.02 (17 CFR 21.02).

**2. Indicate how, by whom, and for what purpose the data would be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The Commission employs a comprehensive reporting system to enforce speculative position limits and assess the activities and market power of traders. The information collected under parts 15 through 21 of the Commission's regulations (17 CFR parts 15 to 21) is used primarily by economists in the surveillance section of the Division of Market Oversight for daily market surveillance and the enforcement of speculative position limits. In addition, information on large traders is provided on a case-by-case basis to representatives of the Department of Agriculture, the Department of the Treasury, the Federal Reserve, and the Committees of Congress. The data also provides a basis for periodic Commission publications and is used by Commission economists and universities for research projects.

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purposes warrant the maintenance of an effective and vigorous system of market and financial surveillance.

<sup>1</sup> 72 FR 34417 (June 22, 2007).

<sup>2</sup> 72 FR 50209 (August 31, 2007).

<sup>3</sup> See e.g., Policy Consultation on Amendments to the SFA and FAA, P011-2007, Monetary Authority of Singapore (October 2007).

3. **Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

The Commission's reporting rules collect clearing information from the regulated markets pursuant to Commission regulation 16.00 (17 CFR 16.00) and from reporting firms pursuant to Commission regulation 17.00 (17 CFR 17.00) electronically. This electronic receipt of data accounts for approximately 84 percent of the total responses submitted to the Commission. This electronic receipt of data also accounts for approximately 72 percent of the total hour reporting burden in a fiscal year. The Commission periodically reviews the reporting rules with a view to incorporating additional advanced technological collection techniques for the collection of information. For example, final rules adopted in December of 2004 eliminated the requirement for the submission of daily hard copy reports to the Commission, replaced rigid requirements for dial-up data transmission with more general (and thereby flexible) data transmission requirements, and established the potential means for reporting firms to authenticate (when technically possible) Forms 102 by a method other than manually signing the form. See 69 FR 76392 (December 21, 2004).

4. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

The Commission's reporting rules are partially duplicative of the reporting requirements of the regulated markets. It must be noted that the Commission, and the regulated markets, each have separate statutory obligations to establish and operate comprehensive surveillance programs. Although partially duplicative of the efforts of the regulated markets, the Commission's surveillance programs, as instituted pursuant to the reporting rules, permits the Commission, among other things, to independently set reporting requirements, and surveil the activities of traders across different markets on a daily basis. In view of this, the Commission has determined to maintain an independent reporting framework.

5. **If the collection of information involves small business or other small entities (Item 5 of OMB From 83-I), describe the methods used to minimize burden.**

The information collection does not involve small organizations.

6. **Describe the consequence to the Federal Program or policy activities if the collection were conducted less frequently as well as any technical or legal obstacles to reducing burden.**

Market activities require surveillance on a daily basis. Market developments such as attempted manipulation or congestion can develop rapidly. Adequate surveillance would be impossible if large trader reports were not received and reviewed on a daily basis.

7. **Explain any special circumstances that require the collection to be conducted in a manner:**

- **Requiring respondents to report information to the agency more often than quarterly.**

In order to adequately conduct market surveillance, our reporting rules collect information on a daily basis, and when necessary, upon special call (upon the request of the Commission)).

- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.**

In order to adequately conduct market surveillance, our reporting rules routinely require the collection and presentation of information in fewer than 30 days.

- **Requiring respondents to submit more than an original and two copies of any document.**
- **Requiring respondents to retain records other than health, medical, government contract, grant-in-aid, or tax records, for more than three year.**

For the purpose of enforcing the provisions of the Act and the Commission's regulations thereunder, Commission regulation 1.31 (17 CFR 1.31) requires that:

"All books and records required to be kept by the [Commodity Exchange] Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the first two years of the five-year period. All such books and records shall be open to inspection by any representative of the Commission or the U.S. Department of Justice."

- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.**
  - **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.**
  - **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.**
  - **Requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**
- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping disclosure, or reporting format (if any, and on the data elements to be recorded, disclosed, or reported).**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

Opportunity for public comment is provided when regulations are initiated or amended. Contact with the regulated markets, reporting firms, and traders are maintained on a continuous and ongoing basis to resolve reporting problems and address concerns. The notices of proposed and final rulemakings which are relevant to this Supporting Statement are attached to this document for your review.

9. **Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**
10. **Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.**

Public disclosure of information concerning business transactions and market positions of any person is prohibited by section 8(a) of the Act, 7 USC 12(a), except under the limited circumstances specified by the Act.

11. **Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The data collection requirements relating to market data and large traders contain no sensitive questions as that term is used in item 11.

12. **Provide estimates of the hour burden of the collection of information. The Statement should:**
  - **Indicate the number of respondents, frequency of response, annual hour burden and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than ten) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
  - **If the request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

- **Provide estimates of annualized cost to respondents for the hours burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

The information collection burden is approximately 18,576 hours. The variance in burden hours from the prior recorded Annual Burden in Fiscal Year is attributable to the recently adopted amendments to part 21 of the Commission's regulations (17 CFR part 21).

(a) Clearing Member Reports. Twelve exchanges provide clearing member reports pursuant to Commission regulation 16.00 (17 CFR 16.00) once on each of an estimated 220 business days per year. The exchanges must submit confidential information to the Commission on the aggregate positions and trading activity of each clearing member. The exchanges, on a daily basis, report each clearing member's open long and short positions, purchases and sales, exchanges of futures, and futures delivery notices. The data is reported separately by proprietary and customer accounts by futures month and, for options, by puts and calls by expiration date and strike price. The Commission obtains clearing member reports from the exchanges or the clearing organizations of each exchange. Exchanges and the clearing organizations of each exchange routinely provide this data to each clearing member. Since the data is routinely provided to clearing members, the reporting burden for this set of data is estimated at 20 minutes for each exchange per day (.333 hours per response). Total burden hours for the exchanges are estimated at 879 hours and using a professional wage rate category of \$25/hr., the estimated total cost to the exchanges is \$21,975.

(b) Reports by FCMs, introducing brokers, clearing members, and foreign brokers.

(1) Approximately 750 FCMs, clearing members, and foreign brokers are subject to the routine reporting requirements under part 17 of the Commission's regulations (17 CFR part 17) and special calls for information under part 21 of the Commission's regulations (17 CFR 21). Under Commission regulation 17.00 (17 CFR 17.00), routine reports are filed only for accounts with futures and option positions that exceed levels set by the Commission in regulation 15.03(b) (17 CFR 15.03(b)). It is estimated that this represents about 10 percent of all accounts carried by potential respondents and that less than one-half (approximately 264) of all respondents may be required to file reports at any one time. This information is currently reported in machine-readable form generally using internet data transmissions. Of the 264 firms, two service bureaus file reports for 40 firms. Therefore, the Commission receives reports electronically from 226 sources. Less than 15 minutes per day (.25 hours per response) are expended by each firm in generating files and transmitting them to the Commission. Over a 220 day period, the reporting burden on these firms is 12,430 hrs. Using a clerical

wage rate category of \$25/hr. for the transmissions, we estimate costs to the firms at \$310,750.

(2) Each account reported to the Commission by an FCM, clearing member, or foreign broker must also be identified on a Form 102 (17 CFR 17.01). Forms 102 provide information that allows the Commission to combine different accounts held or controlled by the same trader and to identify commercial firms using the markets for hedging. The total number of Forms 102 filed with the Commission is estimated at 4,000 per year. Respondents expend 12 minutes completing each form (.20 hours per response) for a total burden of 800 hours. Using a clerical wage rate scale of \$10/hr., costs are estimated at \$8,000.

(3) Under part 21 of the Commission's regulations (17 CFR part 21), the Commission may make special calls for additional cash and futures data concerning traders from FCMs, introducing broker, clearing members, and foreign brokers. In addition, under part 21 of the Commission's regulations (17 CFR part 21), the Commission may request upon call to FCMs and introducing brokers identifying information regarding persons who exercise trading control over accounts. Position information collected pursuant to special call under part 21 (17 CFR part 21) of the Commission's regulations is submitted by reporting firms and may be used to audit large trader reports and is used to investigate potential market abuses. Although similar to the standardized information routinely collected under part 17 of the Commission's regulations (17 CFR part 17) for reportable accounts, such data is submitted in response to customized requests for information and may regard accounts and positions that are not reportable. In contrast to special calls for identifying data made under Commission regulation 18.04 (17 CFR 18.04), special calls made under any provision of part 21 of the Commission's regulations (17 CFR part 21) generally occur only when a particular market shows a potential for disruption or there is an investigation of possible violations of the Act or the regulations thereunder. We estimate that the Commission will make less than 10 special calls under all of the provisions of part 21 of the Commission's regulations (17 CFR part 21) and that each response to a call will require approximately 1 hour. Using a professional wage rate scale of \$25/hr., costs are estimated at \$250 per annum. The estimate of 10 special calls is 6 less than prior estimates and is based upon the Division of Market Oversight's assessment of the rarity of issuances of special calls under part 21 of the Commission's regulations (17 CFR part 21).

(c) Reports from traders. Traders provide identifying information using Forms 40 under Commission regulation 18.04 (17 CFR 18.04), position data upon special call under Commission regulations 18.00 and 18.05 (17 CFR 18.00 and 18.05), and Series '04 reports under part 19 of the Commission's regulations (17 CFR part 19).

(1) The number of traders filing the Form 40 is estimated at 2,400 per year with each response requiring approximately 20 minutes (.333 hours per response).

Using a professional wage rate scale of \$25/hr., costs are estimated at \$20,000 per annum.

(2) The Commission has maintained the authority to make special calls on traders under part 18 of the Commission's regulations (17 CFR part 18) when the information obtained routinely under part 17 of the Commission's regulations is incomplete for its purposes. Information obtained on call under Commission regulations 18.00 and 18.05 (17 CFR 18.00 and 18.05) is provided in the manner stipulated per instruction contained in the special call. We estimate that the Commission will make less than 6 special calls under Commission regulations 18.00 and 18.05 (17 CFR 18.00 and 18.05) and that each response to a call will require approximately 1.5 hours. Using a professional wage rate scale of \$25/hr., costs are estimated at \$225 per annum.

(3) Under part 19 of the Commission's regulations (17 CFR part 19), approximately 96 of the 2,400 reportable traders must file Series '04 reports. The Commission requires monthly Series '04 reports from traders concerning their cash positions in order to verify that traders who own or control futures positions in excess of Federal speculative limits are hedging. In addition, weekly Series '04 data is collected pertaining to cotton call purchases and sales. We estimate that there will be 3,648 responses filed using the Series '04 reports and that each filing will require approximately 1 hour of response time. Using a clerical wage rate scale of \$10/hr., costs are estimated at \$30,648 per annum.

Attachment 1 summarizes the burden hours for this information collection. Annual costs associated with these burden hours are \$397,680. The variance in the annual cost associated with the collection of information from prior recorded costs is attributable to the recently adopted amendments to part 21 of the Commission's regulations (17 CFR part 21) and corrections to the wage rate scale assigned to hours expended to respond to special calls made under part 21 of the Commission's regulations (17 CFR part 21).

- 13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**
- **The cost estimate should be split into two components; (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major costs factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software,**

monitoring, sampling, drilling and testing equipment, and record storage facilities.

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate, agencies may consult with a sample of respondents (fewer than ten), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

There are no applicable capital, start up, maintenance, or purchase of service cost component.

It is important to note that the information collected under the reporting rules, including the information collections that relate to the most recent amendments to part 21 of the Commission's regulations (17 CFR part 21), are basic transaction records that any market participant would create as a matter of sound business practices in the normal course of business operations and in response to requirements imposed by non-governmental financial self-regulatory bodies. Because these records would be generated in any event, independently of any regulatory requirements, we estimate that the reporting rules impose no additional material costs on FCMs, introducing brokers, members of reporting markets, or foreign brokers that relate to recordkeeping and retention.

- 14. Provide estimates of the annualized costs to the Federal Government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.**

Estimated cost to the Federal Government includes salaries of \$1,250,000 for persons directly involved in data collection and 2 support programmers from the Office of Information Resource Management. If the system has a five-year minimum life, estimated annual costs are \$500,000. Total annual cost to the government allocable to the reporting system is about \$250,000.

- 15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

This question does not apply.

- 16. For collection of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis, and publication. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

This question does not apply.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

This question does not apply.

- 18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

There are no exceptions.

## ATTACHMENT 1

### Large Trader Reporting Requirements for Options and Futures

| a                  | b                               | c                                  | d   | e <sup>1</sup>         | f                                      | g <sup>2</sup>               |
|--------------------|---------------------------------|------------------------------------|---|------------------------|--|------------------------------|
| Type of Respondent | Estimated Number of Respondents | Report or Record                   | Average Reports Annually by Each Respondent | Total Annual Responses | Estimated Number of Hours Per Response | Annual Burden in Fiscal Year |
| Exchanges          | 12                              | R. 16.00                           | 220   | 2,640                  | 0.333                                  | 879                          |
| FCMs               | 226                             | R. 17.00                           | 220   | 49,720                 | 0.25                                   | 12,430                       |
|                    | 200                             | R. 17.01<br>(Form 102)             | 20  | 4,000                  | .2                                     | 800                          |
|                    | 10                              | Part 21<br>Special Calls           | 1   | 10                     | 1                                      | 10                           |
| Traders            | 2,400                           | R. 18.04<br>(Form 40)              | 1   | 2,400                  | .333                                   | 800                          |
|                    | 96                              | Part 19<br>(Forms 204 & 304)       | 38  | 3,648                  | 1                                      | 3,648                        |
|                    | 6                               | Rs. 18.00 & 18.05<br>Special Calls | 1   | 6                      | 1.5                                    | 9                            |
|                    |                                 |                                    |   |                        |  |                              |
| <b>Total</b>       | <b>2,950</b>                    |                                    |   | <b>62,424</b>          |  | <b>18,576</b>                |

<sup>1</sup> Column b times column d.

<sup>2</sup> Column e times column f.