

SUPPORTING STATEMENT FOR NEW AND REVISED INFORMATION COLLECTIONS

OMB CONTROL NUMBER 3038-0096

Swap Data Recordkeeping and Reporting Requirements

Justification

- 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.**

Section 2(a)(13)(G) of the Commodity Exchange Act (“CEA”) requires that all swaps, whether cleared or uncleared, must be reported to SDRs. CEA section 21(b) directs the Commission to prescribe standards for swap data recordkeeping and reporting, which are to apply to both registered entities and counterparties involved with swaps. The Commission established these regulations in Part 45 of the Commission’s regulations. The regulations establish swap reporting and recordkeeping requirements for swap execution facilities (“SEFs”), designated contract markets (“DCMs”), swap data repositories (“SDRs”), derivatives clearing organizations (“DCOs”), swap dealers (“SDs”), major swap participants (“MSPs”), and non-SD/MSP/DCO counterparties.

The Commission is adopting amendments to Part 45 to streamline reporting requirements and clarify and update certain provisions.¹ The Commission is revising Information Collection 3038-0096 to account for additions and revisions resulting from these changes. Some information collections discussed in existing Information Collection 3038-0096 are not impacted by the Commission’s changes, and the Commission is not revising the estimated burdens associated with those collections. In other areas, the Commission is correcting errors in the current estimated burdens.

The changes the Commission is adopting impact SDRs, SEFs, DCMs, and reporting counterparties that report swap data for the Commission to perform its regulatory duties of risk monitoring and ensuring compliance with its rules, among other things. The Commission is adding or modifying information collections for the following regulations:

- Regulation 45.3 contains the requirements related to required swap creation data reporting when counterparties execute new swaps. Amended § 45.3 eliminates the requirement to send separate confirmation data reports, and the requirement for reporting counterparties to report two pieces of information about international swaps.
- Regulation 45.4 contains the requirements for reporting changes to swaps after execution, as well as to report daily or quarterly valuation data for swaps. Amended § 45.4 eliminates the option for reporting changes to swaps through daily state data reports, and

¹ The Commission proposed the amendments to Part 45 in February 2020. Swap Data Recordkeeping and Reporting Requirements, 75 FR 21578 (Apr. 17, 2020).

the requirement for non-SD/MSP/DCO reporting counterparties to report valuation data quarterly.

- Regulation 45.5 contains the requirements for reporting identifiers for each swap report. Amended § 45.5 requires entities to use unique transaction identifiers (“UTIs”) instead of unique swap identifiers (“USIs”), and non-SD/MSP/DCO reporting counterparties that are financial entities to generate UTIs instead of SDRs.
- Regulation 45.6 contains the requirements for each entity to be identified in all swap reports by a legal entity identifier (“LEI”). Amended § 45.6 requires certain entities to renew their LEIs, in addition to obtaining and having an LEI.
- Regulation 45.10 contains the requirements for reporting swaps to a single SDR. Amended § 45.10 permits reporting counterparties to change SDRs, subject to certain notification requirements.

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’s regulations in Part 45 require SEFs, DCMs, and reporting counterparties to report swap data to SDRs. The SDRs provide this data to the Commission directly. The Commission uses swap data in connection with fulfilling its regulatory duties.

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.

All of the information collections within Information Collection 3038-0096 involve the use of electronic collection protocols. All required data submissions to the Commission must be electronic.

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 information collected pursuant to part 45 of the Commission’s regulations is not already collected by the Commission or other regulators for any other purpose and is not publicly available through another source. The swap data is unique and no other similar transaction-level information is available. There are no other existing regulations that could be modified to serve a similar purpose in any practical way.

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

The Commission has previously established that DCMs, DCOs, MSPs, SDs, SDRs, and SEFs are not small entities. In addition, based on its review of publicly available data, the Commission believes that the overwhelming majority of non-SD/MSP/DCO reporting counterparties affected by this rulemaking are eligible contract participants (“ECPs”) that the Commission has previously determined are not small entities or do not otherwise meet the definition of “small entity.” Accordingly, the Commission does not believe that this collection of information will affect a substantial number of small entities.

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.

Without the required frequency of reporting set forth in the Commission’s regulations, the Commission would be unable to fulfill its regulatory mandate of monitoring systemic risk.

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;**

Swap data is not required to be reported to the Commission.

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

This does not apply.

- **requiring respondents to submit more than an original and two copies of any document;**

Not applicable, respondents are not required 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 years;**

The amendments to part 45 covered by this supporting statement will not modify Information Collection 3038-0096 in regards to recordkeeping requirements.² Other Commission regulations, including §§ 1.31, 45.2, and 49.12, would require records, including much of the information provided under Information Collection 3038-0096, to be kept for at least five years. Those recordkeeping requirements are discussed in the information collections for those other regulations.

² The Commission is not amending the current recordkeeping estimates for § 45.2 in this rulemaking. However, Attachment A corrects an error in the calculation of the annual number of burden hours per respondent, from 650 burden hours per respondent to 100 burden hours per respondent.

- **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;**

Not applicable, the collection is not connected or related to any statistical survey.

- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

Not applicable, the collection does not involve the use of any statistical data classification.

- **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; or**

Not applicable, the collection does not include any pledges of confidentiality that are not supported by authority established in statute or regulation.

- **The collection does not involve any pledge of confidentiality, 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.**

All requirements to submit proprietary or other confidential information in the collection are subject to the Commission's existing statutory, regulatory, and procedural requirements to protect the confidentiality of such information. This includes the requirements of sections 8(a) and 21(c)(6) of the Act as well as in §§ 43.4, 49.16, 49.17, and 49.18, and parts 145 and 147 of the Commission's regulations.

- 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.**

As part of the rulemaking process, the proposed amendments were published in the *Federal Register* at 85 FR 21578 (Apr. 17, 2020). The Commission did not receive any comments on the information collection. Thus, members of the public, including respondents, have an opportunity to comment on the rule and related matters, including issues and other paperwork burdens.³

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

³ The Commission is publishing a 60-day notice ("60-day Notice") in the *Federal Register* at the same time as publication of this final rule in order to solicit comment on burden estimates for part 45 that were not included in the proposal.

Not applicable, no payment or gift will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.

The Commission does not provide respondents with an assurance of confidentiality beyond that provided by applicable law. All requirements in the collection to submit proprietary or other confidential information are subject to the Commission's existing statutory, regulatory, and procedural requirements to protect the confidentiality of such information. This includes the requirements of sections 8(a) and 21(c)(6) of the Act as well as in §§ 43.4, 49.16, 49.17, and 49.18, and parts 145 and 147 of the Commission's regulations.

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.

Not applicable, the collection does not involve any questions of a sensitive nature, as the term is used in this question.

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.**

Please see attachment A for estimates of the hour burden for the collections of information under OMB 3038-0096 discussed in this supporting statement for swap market participants and SDRs.

In calculating the annualized cost to respondents for the hour burdens for the collections of information, the Commission estimates the appropriate wage rate based on salary information for the securities industry compiled by the Department of Labor’s Bureau of Labor Statistics (“BLS”). Commission staff arrived at an hourly rate of \$72.23 using figures from a weighted average of salaries and bonuses across different professions contained in the most recent BLS Occupational Employment and Wages Report (May 2018) multiplied by 1.3 to account for overhead and other benefits. The Commission estimated appropriate wage rate is a weighted national average of mean hourly wages for the following occupations (and their relative weight): “computer programmer – industry: securities, commodity contracts, and other financial investment and related activities” (50% weight); “compliance officer – industry: securities, commodity contracts, and other financial investment and related activities” (25%); and “lawyer – legal services” (25%). Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collection of information.

More detail regarding the burden estimates for each regulatory requirement affected by the Commission’s actions is provided below.

Swap Creation Data Reporting Amendments

The Commission is amending § 45.3, which requires SEFs, DCMs, and reporting counterparties to report swap data to SDRs when entering into new swaps. As an initial matter, prior to making adjustments to the burden estimates based on amendments to § 45.3 in the final rule, the Commission is correcting the “total annual burden hour cost of all responses” in the supporting statement for the renewal of this collection from \$7,248 (which was the total average hour burden cost per respondent) to \$12,553,536 to correct the previous error.

Currently, § 45.3 requires SEFs, DCMs, and reporting counterparties to report confirmation data reports and PET data reports when entering into new swaps. The Commission is removing the requirement for SEFs, DCMs, and reporting counterparties to report confirmation data reports. These entities will report a single swap creation data report instead of separate PET data reports and confirmation data reports. Commission staff estimates that across the range of entities, the change will reduce the number of swap creation data reports being sent to SDRs. This change will not decrease the hourly burden, but will decrease the number of reports from 10,000 reports per 1,732 respondents to 7,000 reports per respondent, or 12,124,000 reports in the aggregate. The annual hourly burden is estimated at .01 average hours per report, and the gross annual reporting burden is estimated at 121,240 hours.

The Commission is also removing the requirement for SEFs, DCMs, and reporting counterparties to report trade repository (“TR”) identifiers and swap identifiers for international swaps. This removes the requirement to report two pieces of information within a required swap creation data report, without impacting the number of reports themselves. The requirement to report swap identifiers is duplicative, as SEFs, DCMs, and reporting counterparties are required to report swap identifiers for all swaps pursuant to § 45.5. However, the removal of the requirement to report TR identifiers will slightly reduce the amount of time required to make each report, as SEFs, DCMs, and reporting counterparties will not need to report this information

anymore. Therefore, the Commission estimates the removal of this requirement will lower the burden hours by .01 hour per report. However, at the same time, the Commission is requiring the reporting of UTIs instead of USIs, which are currently being reported in every required swap creation data report. The Commission estimates the new rules requiring SEFs, DCMs, SDRs, and reporting counterparties to change from reporting USIs to UTIs will impact the burden calculations for § 45.3 by increasing the burden hours by .01 hour per report. As a result, the Commission estimates there will be no net change to the burden hours per report for § 45.3 required swap creation data reporting, which will remain at .01 average burden hours per report.

The aggregate burden under § 45.3 as amended is estimated to apply to 1,732 respondents, which will file on average 7,000 reports annually per respondent at .01 average hours per report, and a gross annual reporting burden of 121,240 hours.

Swap Continuation Data Reporting Amendments

The Commission is amending § 45.4, which requires reporting counterparties to report data to SDRs when swap terms change and daily swap valuation data. As an initial matter, prior to making adjustments to the burden estimates based on amendments to § 45.4 in the final rule, the Commission is correcting the estimated number of respondents that was included in the supporting statement for the renewal of this collection from 1,732 to 1,705, to reflect the fact that SEFs and DCMs do not report required swap continuation data under § 45.4.

Currently, § 45.4 permits reporting counterparties to report changes to swap terms when they occur (life cycle reporting), or to provide a daily report of all of the swap terms (state data reporting). The Commission is removing the option for state data reporting. Reporting counterparties will report data to SDRs only when swap terms change. Commission staff estimates that across asset classes for each respondent, the number of reports will be reduced from 207,543 reports per respondent to 103,772 reports per respondent.

The Commission is also removing the requirement for non-SD/MSP/DCO reporting counterparties to report quarterly valuation data. For the 1,585 non-SD/MSP/DCO reporting counterparties, the Commission believes this will further reduce the number of required swap continuation data reports being sent by 4 quarterly reports per 1,585 non-SD/MSP/DCO reporting counterparties. This is estimated to reduce the number of § 45.4 continuation data reports sent by reporting counterparties from 103,772 reports per respondent to 97,431 reports per respondent.

Separately, the Commission is expanding the daily valuation data reporting requirement for SD/MSP reporting counterparties to report margin and collateral data in addition to valuation data. This is a change from the Proposal, in which the Commission proposed requiring 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 is revising its estimate to .0035 hours

per report.

The new aggregate burden under § 45.4 as amended is 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.

Unique Swap Identifiers

The Commission is amending § 45.5, which requires SEFs, DCMs, reporting counterparties, and SDRs to generate and transmit USIs. As an initial matter, prior to making adjustments to the burden estimates based on amendments to § 45.4 in the final rule, the Commission is correcting the estimated number of respondents and the estimated number of reports per each respondent. Currently, SDRs, SDs, MSPs, SEFs, and DCMs are required to generate USIs, but the Commission inadvertently had included the 1,585 non-SD/MSP/DCO reporting counterparties. The Commission is therefore updating the number of respondents to 147 SDs, MSPs, SEFs, DCMs, DCOs, and SDRs. However, these entities generate USIs on behalf of non-SD/MSP/DCO reporting counterparties for all swaps, so the estimated number of reports per each respondent will increase to 115,646 reports per 147 respondents to account for the 17,000,000 new swaps reported each year with USIs.

Currently, § 45.5 requires SDRs to generate and transmit USIs for off-facility swaps with a non-SD/MSP reporting counterparty. The Commission is amending § 45.5 to require non-SD/MSP/DCO reporting counterparties that are financial entities to generate and transmit UTIs for off-facility swaps. The Commission estimates that approximately half of non-SD/MSP/DCO reporting counterparties are financial entities. Therefore, the Commission estimates that the number of respondents will increase from 147 SDs, MSPs, SEFs, DCMs, DCOs, and SDRs to 940 with the addition of financial entities. At the same time, however, this will lower the number of UTIs generated per respondent to account for the increase in the number of respondents generating UTIs. The Commission estimates the estimated number of reports per respondent will decrease from 115,646 reports from 147 respondents to 18,085 reports from 940 respondents.

The new aggregate burden under § 45.5 as amended is estimated to apply to 940 respondents, with 18,085 reports per respondent, .01 average hours per report, and a gross annual reporting burden of 169,999 hours.

Legal Entity Identifier Amendments

The Commission is amending § 45.6, which requires reporting entities to have LEIs. As an initial matter, the Commission is revising the burden estimate for § 45.6. LEIs are reported in required swap creation data and required swap continuation data reports, which are separately accounted for in the estimates for §§ 45.3 and 45.4. The current estimate for § 45.6 double-counts the estimates for §§ 45.3 and 45.4 by calculating the burden per data report. Instead, the burden for § 45.6 should be based on the requirement for each counterparty to obtain an LEI. The Commission is revising the estimate to reflect that there are 1,732 entities required to have

one LEI per respondent, and revising the burden hours based on this change.⁴

Currently, § 45.6 requires all entities to have LEIs. The Commission is amending § 45.6 to require SDs, MSPs, SEFs, DCMs, DCOs, and SDRs to renew their LEIs annually. The change will increase the hour burden for these entities, but will not affect the burden for the majority of entities required to have LEIs. Nonetheless, the Commission expects the burden associated with these changes to result in an increase from .01 to .02 hours per report, and 17 hours in the aggregate.

The new aggregate burden under § 45.6 is estimated to apply to 1,732 respondents, with 1 report per respondent, .02 average hours per report, and a gross annual reporting burden of 35 hours.

New Notifications for Changing SDRs

The Commission is amending § 45.10(d) to require reporting counterparties to notify SDRs and non-reporting counterparties if they change the SDR to which they report swap data and swap transaction and pricing data. This is a new reporting burden that is not covered in the collection. Reporting counterparties will be required to send notifications to non-reporting counterparties and SDRs if they elect to change the SDR to which they report data pursuant to parts 43 and 45. The Commission estimates that no more than 15 reporting counterparties will choose to change the SDR to which they report data.

The new aggregate burden under § 45.10(d) as amended is estimated to apply to 15 respondents, with 1 report per respondent, .01 average hours per report, and a gross annual reporting burden of .15 hours.⁵

Taking all of the changes to the reporting and recordkeeping burdens described above into account, the Commission estimates that the amendments to § 45.3, § 45.4, § 45.5, § 45.6, and § 45.10 will change the total overall burdens for updated Information Collection 3038–0096 as follows below. As an initial matter, the Commission proposed amending regulations that would impact the collections of information under OMB 3038-0096 (Certain Swap Data Repository and Data Reporting Requirements, 84 Fed. Reg. 21044, May 13, 2019) (the “May 2019 release”). Since the amendments to the part 45 regulations finalized in the Federal Register release accompanying this supporting statement for the collections of information under OMB 3038-0096 are closely related to the amendments proposed in the May 2019 release and adopted in a separate final rule, the Commission’s estimates below and in this supporting statement are based on the updates to burden estimates in the May 2019 release.

⁴ The Commission is similarly revising the estimate for § 45.7, which requires reporting counterparties to use UPIs. Until the Commission designates a UPI, reporting counterparties use the product fields unique to each SDR. As a result, until the Commission designates a UPI, the burden estimates for the product fields are accounted for in §§ 45.3 and 45.4. To avoid double-counting until there is a UPI, the Commission is removing the burden estimate for § 45.7 until the Commission designates a UPI.

⁵ The Commission is also eliminating the § 45.12 regulations for voluntary supplemental reporting, but this is not anticipated to change the aggregate burden hour estimates for the collection. The Commission previously estimated the reporting burden as 0 because the Commission neither required nor requested voluntary supplemental reporting.

- The number of respondents remains 1,732 SEFs, DCMs, DCOs, SDRs, DCMs, SEFs, and non-reporting counterparties.
- The estimated annual number of responses per respondent will be reduced from 257,595 to 132,570.
- The estimated total annual number of responses will be reduced from 446,154,518 to 229,611,240.
- The estimated total aggregate burden hours will be reduced from 2,279,312 to 1,226,021.

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.**

Amended § 45.3 creates costs for SDRs, SEFs, DCMs, and reporting counterparties to update systems for reporting required swap creation data reports. 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 has re-evaluated the analysis and believes it is more accurate to use the estimates developed by staff in its Offices of the Chief Economist and Data and Technology. Using a wage estimate of between \$48 and \$101⁶ per hour, Commission staff initially estimated a one-time initial cost per SDR to be in a range of \$144,000 to \$505,000, based on 3,000 to 5,000 hours of work per SDR.⁷

However, in response to a comment from CME indicating that it expected its costs to be 8,000 to 10,000 developer hours, Commission staff expanded the range of potential costs per SDR in the adopting release to between \$144,000 and \$1,010,000 for PRA purposes. Based on an estimated average of \$577,000 per SDR to update their systems, the Commission estimates capital/start-up costs of \$1,731,000 across all 3 SDRs.

With regard to reporting entities, the Commission estimated a one-time initial cost per reporting entity to be in a range of \$24,000 to \$73,225, at 500 to 725 hours per entity.⁸ Rather than base the Commission's PRA estimates of the total upfront implementation cost for reporting entities on arithmetic averages, the Commission recognized that reporting entities are already subject to existing swaps data reporting and recordkeeping obligations pursuant to Part 45, so it is likely that reporting entities will only need to reprogram their existing reporting systems, instead of building new reporting systems, to comply with the final rule. Furthermore, through the Commission's eight years of experience in administering Part 45, the Commission believes that the 1,732 reporting entities are a relatively consistent group, such that most entities that are currently reporting entities under Part 45 will continue to be reporting entities under the final rule, and few entities that are not currently reporting entities under Part 45 will become reporting entities under the final rule. Because most reporting entities will only need to reprogram their existing reporting systems, the Commission believes that the upfront cost to reporting entities to implement the final rule will be on the lower end of the range, closer to \$24,000 than to \$73,225. Therefore, the Commission based its PRA estimates on a more realistic split of 90%/10% between existing reporting entities and new reporting entities, which results in a weighted average cost of \$28,923 per reporting entity ($\$24,000 \times 0.9 + \$73,225 \times 0.1$), or a total upfront implementation cost of \$50,094,636 for the 1,732 reporting entities.

The total aggregate upfront implementation cost is \$51,825,636 (\$50,094,636 for reporting entities and \$1,731,000 for SDRs). The Commission does not expect any ongoing costs for SDRs or reporting entities after the initial builds.

⁶ Hourly wage rates for this aspect came from the Software Developers and Programmers category of the May 2019 National Occupational 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 low 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.

⁷ The lower estimate of \$144,000 represents 3,000 working hours at the \$48 rate. The higher estimate of \$505,000 represents 5,000 working hours at the \$101 rate.

⁸ The lower estimate of \$24,000 represents 500 working hours at the \$48 rate. The higher estimate of \$73,225 represents 725 working hours at the \$101 rate.

Amended § 45.4 creates costs for SDRs and reporting counterparties to update systems for reporting required swap continuation 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 described below, for a total estimated hours burden of 17,050 hours. The cost per entity was estimated to be \$722.30 for a total cost across entities of \$1,231,522. 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 \$615,761 across entities. However, after re-evaluating the analysis based on the estimates developed by staff in the Offices of the Chief Economist and Data and Technology, the Commission now believes since these costs relate to reporting certain swap data elements, they are covered in the start-up and initial costs for § 45.3 described above. To avoid double-counting, the Commission is removing the estimates for § 45.4 from Attachment B.

Amended § 45.5 creates costs for entities required to generate USIs to update their systems to generate UTIs. The Commission estimates that SDRs and reporting counterparties required to generate UTIs will incur a one-time initial burden of 1 hour per entity to modify their systems to adopt the changes described below, for a total estimated hours burden of 940 hours. The cost per entity is estimated to be \$72.23 for a total cost across entities of \$67,896. The Commission had additionally estimated 1 hour per entity annually to perform any needed maintenance or adjustments to reporting systems, at a cost of \$72.23 per entity and \$67,896 across entities.

The total capital/start-up costs for § 45.3 and § 45.5, as well as operational/maintenance costs for § 45.5, are shown in the table in Attachment B.

- 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.**

The Commission does not anticipate that the changes will require additional staff time or technology resources beyond what is already dedicated to this collection, as discussed in previous filings related to Information Collection 3038-0096.

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

As discussed above, the Commission is amending part 45 of the Commission's regulations in order to improve the quality of swap data and to streamline regulatory requirements governing data reporting. This supporting statement discusses adjustments to burden hours calculations for Information Collection 3038-0096 to account for modified and new burdens associated with the changes to the regulation in the final rule. The Commission is also updating the overall burden hours, collection volumes, and costs related to Information Collection 3038-0096 based on updated information related to other collections within

Information Collection 3038-0096 that are not being modified by the final rule and to correct errors in past estimates.

- 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.**

Not applicable, the results of this collection of information are not planned to be published for statistical use.

- 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.**

Not applicable, the Commission is not seeking such approval for this publication.

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

Not applicable, there are no exceptions.

Attachment A

OMB Control Number 3038-0096 Swap Data Reporting and Recordkeeping

Reporting Burden

1	2	3	4	5	6	7	8	9	10
Regulation	Estimated Number of Respondents	Estimated Number of Reports by Each Respondent	Estimated Average Number of Burden Hours per Response	Annual Number of Burden Hours per Respondent (3 x 4)	Estimated Average Burden Hour Cost	Total Average Hour Burden Cost Per Respondent (5 x 6)	Total Annual Responses (2 x 3)	Total Annual Number of Burden Hours (2 x 5)	Total Annual Burden Hour Cost of All Responses (2 x 7)
45.3	1,732 SDRs, SEFs, DCMs, Reporting Counterparties	7,000 ¹	0.010	70	\$72.23	\$ 5,056	12,124,000	121,240	\$8,757,165 ²
45.4	1,705 SDRs and Reporting Counterparties ³	97,431 ⁴	0.0035 ⁵	341	\$72.23	\$24,631	166,119,855	581,419	\$41,995,930
45.5	940 SDRs, SEFs, DCMs, and Financial Entity Reporting Counterparties ⁵	18,085 ⁷	0.010	180.85	\$72.23	\$13,062.79	16,999,900	169,999	\$12,279,028
45.6	1,732 SDRs, SEFs, DCMs, Reporting Counterparties	1 ⁸	0.020 ⁹	0.02	\$72.23	\$1	1,732	35	\$2,502
45.10	15 Reporting Counterparties ¹⁰	1	0.010	0.01	\$72.23	\$1	15	0.15	\$11
45.14 ¹¹	1,732 SDRs, SEFs, DCMs, Reporting Counterparties	52	2	104	\$72.23	\$7,512	90,064	180,128	\$13,010,645
Totals		122,570						1,052,821	\$76,045,281

Recordkeeping Burden

1. Regulation	2. Estimated Number of Respondents	3. Estimated Number of Reports by Each Respondent	4. Estimated Average Number of Burden Hours per Response	5. Annual Number of Burden Hours per Respondent (3 x 4)	6. Estimated Average Burden Hour Cost ¹²	7. Total Average Hour Burden Cost Per Respondent (5 x 6)	8. Total Annual Responses (2 x 3)	9. Total Annual Number of Burden Hours (2 x 5)	10. Total Annual Burden Hour Cost of All Responses (2 x 7)
45.2 ¹³	1,732 SDRs, SEFs, DCMs, Reporting Counterparties	10,000	0.01	100	\$72.23	\$7,223	17,320,000	173,200	\$12,510,236

Total Record - keeping and Reporting	1,732 SDRs, SEFs, DCMS, Reporting Counterparties	132,570					229,611,240	1,226,021	\$88,555,517
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Attachment B

Capital/Start-Up Costs

Regulation	Capital/Start-Up Costs
45.3	\$ 51,825,636 ¹⁴
45.5	\$ 67,896
Total	\$ 51,893,532

Regulation	Operational/Maintenance Costs
45.5	\$ 67,896

Total Capital/Start-up and Operating/Maintenance Costs: \$51,961,428

- ¹ The Commission estimates eliminating the requirement for confirmation data reports will reduce the number of reports required to be reported on entering into a swap by 30%, or 7,000 reports per respondent instead of the previous 10,000 report estimate. The Commission has revised the rest of the estimate for § 45.3 accordingly.
- ² The Commission is correcting a previous error in Attachment A. In the recent renewal, the total annual burden hour cost had been incorrectly recorded as \$7,248. The Commission has corrected the cost to be \$12,553,536. Reducing the number of reports per respondent by 30% to 3,000 in the final rule will result in a lower total annual burden hour cost of \$8,757,165.
- ³ The Commission had previously listed the number of entities as 1,732. The Commission is revising this number of entities to be 1,705, to reflect that the 27 SEFs and DCMs do not submit reports under § 45.4. The Commission is updating the estimates for § 45.4 accordingly.
- ⁴ The Commission estimates eliminating the option for reporting updates to swap terms according to the state data reporting method will reduce the number of swap reports being submitted according to § 45.4 by 50%, or 103,772 from 207,543 reports estimated in the last renewal. In addition, the Commission estimates removing the requirement to submit quarterly valuation reports by certain reporting counterparties will result in a reduction of 6,340 reports, resulting in 97,431 reports per respondent. The Commission is updating the rest of the estimates for § 45.4 accordingly.
- ⁵ The Commission estimates requiring SD counterparties to report collateral and margin data, in addition to validation data, in the § 45.4 reports will increase the amount of time it takes to create each daily report by .0005 hours from .003 hours to a new estimate of .0035 hours. The Commission is updating the rest of the estimate for § 45.4 accordingly.
- ⁶ The Commission is correcting the previous estimate that § 45.5 applies to 1,732 entities to account for the fact that non-SD/MSP/DCO reporting counterparties that are financial entities need to generate USIs. The previous estimate of 1,732 SDRs, SEFs, DCMs, and reporting counterparties over-estimated the number of respondents by including non-SD/MSP/DCO reporting counterparties. The Commission is estimating that half of the 1,585 non-SD/MSP/DCO reporting counterparties are financial entities, bringing the total number of respondents for § 45.5 to 940.
- ⁷ The Commission had previously estimated that 1,732 entities generated all of the USIs for the 17 million new swaps entered into each year. However, the Commission has to re-balance this estimate in light of the fact that non-SD/MSP/DCO reporting counterparties that are not financial entities do not have to generate UTIs under the amendments being adopted. Instead, the Commission estimates that 940 entities will each generate approximately 18,000 UTIs for the 17 million new swaps entered into each year. The Commission is updating the rest of the estimate accordingly.
- ⁸ The Commission is revising the estimate for § 45.6 by reducing the number of reports per respondent to 1 to reflect the fact that each entity is required to obtain an LEI, but LEIs themselves are reported in the § 45.3 and § 45.4 reports. To avoid double-counting, the Commission will not separately account for each LEI reported in the § 45.3 and § 45.4 reports. Instead, the Commission has revised the estimate to reflect each entity obtains one LEI. The Commission is updating the rest of the estimate accordingly. The Commission is removing the estimate for § 45.7 for the same reason that product terms are reported in the § 45.3 and § 45.4 reports.
- ⁹ The Commission is also increasing the burden hours per response by .01 hours, from .01 to .02 hours, to reflect the fact many LEI holders will have to renew their LEIs annually. The Commission is revising the rest of the estimate accordingly.
- ¹⁰ The notification requirement in § 45.10 is new. The Commission estimates that 15 entities will elect to take advantage of the opportunity provided in § 45.10 to change SDRs, and will thus need to send the notifications required by § 45.10(d), with each report taking .01 hour.
- ¹¹ The Commission is not modifying the current estimate for § 45.14.
- ¹² As described above in the answer to question 12, the Commission calculated the average wage rate to \$72.23.
- ¹³ The Commission is not amending the current recordkeeping estimates for § 45.2 in this rulemaking. However, the above table corrects an error in the calculation of the annual number of burden hours per respondent, from 650 burden hours per respondent to 100 burden hours per respondent. The correction of the burden hours per respondent in column 5 of this row also affects the total burden hours across all respondents in column 9, which is being reduced to 173,200.
- ¹⁴ The Commission is updating its estimates of the capital/start-up costs that SDRs, SEFs, DCMs, and reporting counterparties will incur related to adopting the changes in § 45.3 to provide a more-accurate range of expected costs. As described in more detail in Item 13 above, the Commission estimates that SDRs will incur one-time initial costs in a range of \$144,000 to \$1,010,000 per SDR to update their systems, or \$1,731,000 for all 3 SDRs based on an estimated average of \$577,000 per SDR. In addition, the Commission estimates that 1,732 reporting counterparties will incur one-time initial costs in a range of \$24,000 to \$73,225 per reporting entity on the updates. Because most reporting entities will only need to reprogram their existing reporting systems, the Commission believes that the upfront cost to reporting entities to implement the final rule will be on the lower end of the range, closer to \$24,000 than to \$73,225. Therefore, the Commission based its PRA estimates on a more realistic split of 90%/10% between existing reporting

entities and new reporting entities, which results in a weighted average cost of \$28,923 per reporting entity ($\$24,000 \times 0.9 + \$73,225 \times 0.1$), or a total upfront implementation cost of \$50,094,636 for the 1,732 reporting entities. The total aggregate upfront implementation cost is \$51,825,636 (\$50,094,636 for reporting entities and \$1,731,000 for SDRs). The Commission does not expect any ongoing costs for § 45.3 for SDRs or reporting entities after the initial builds.