

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission
for Amendments to Rule 13n-4 in Connection with
Access to Data Obtained by Security-Based Swap Data Repositories
OMB Control No. 3235-0738

This submission is being made pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3501 et seq.

A. Justification

1. Information Collection Necessity

Title VII of the Dodd-Frank Act provides for a comprehensive regulatory framework for security-based swaps (“SBSs”), including the regulation of security-based swap data repositories (“SDRs”).¹ These include requirements that SDRs make SBS data conditionally available to certain regulators and other authorities.²

On August 29, 2016, the Commission adopted rules 13n-4(b)(9), (b)(10) and (d) to implement that data access requirement.³ Under those rules, SDRs are required to provide SBS data to certain entities, subject to a confidentiality condition. The rules further require SDRs to create and maintain information regarding such data access.

To satisfy the statutory confidentiality condition associated with the data access requirements,⁴ regulators and other authorities will enter into a memorandum of understanding (“MOU”) or other arrangement to address the confidentiality of the SBS information made available to the entity.

Also, in connection with the Commission’s statutory authority to determine other persons to be appropriate to access data pursuant to these provisions,⁵ certain regulators or other authorities not designated by statute may submit applications to the Commission requesting that they be deemed eligible to obtain such SBS data.

¹ Pub. L. No. 111-203, § 761(a) (adding Exchange Act Section 3(a)(75) (defining SDR)) and § 763(i) (adding Exchange Act Section 13(n) (establishing a regulatory regime for SDRs)).

² See Exchange Act sections 13(n)(5)(G), (H). This summary describes the collection of information associated with the data access provisions adopted by the Dodd-Frank Act, as modified by section 86001(b) of Public Law 114-94, enacted in 2015.

³ See Access to Data Obtained by Security-Based Swap Data Repositories, Exchange Act Release No. 78716 (Aug. 29, 2016), 81 FR 60585 (Sept. 2, 2016).

⁴ See Exchange Act sections 13(n)(5)(H).

⁵ See Exchange Act sections 13(n)(5)(G)(v).

2. Information Collection Purpose and Use

By allowing certain U.S. and non-U.S. regulators and other authorities to access security-based swap data from SDRs, implementation of the statutory data access provisions – including the confidentiality condition and the Commission’s authority to designate entities to access such information – facilitates regulatory oversight of the SBS market and its participants, including oversight of systemic and other risks associated with the market. Implementation of those provisions also promotes compliance with applicable laws and regulations, including but not limited to compliance with the antifraud provisions of the federal securities laws.

3. Consideration Given to Information Technology

The rules are drafted in a flexible manner that does not mandate the method by which data is provided, and hence facilitates the ability of regulators and other authorities to access such information. In particular, the rules related to the statutory requirement that the Commission be notified of data requests states that an SDR can satisfy that requirement by informing the Commission of the first instance of a request, and maintaining records of other requests. This approach is designed to account for the way the Commission expects entities are likely to access data from SDRs.

4. Duplication

Section 712(a)(2) of the Dodd-Frank Act provides that, before commencing any rulemaking regarding, among other things, SBSs or SDRs, the Commission must consult and coordinate with the Commodity Futures Trading Commission (“CFTC”) and prudential regulators for the purposes of assuring regulatory consistency and comparability, to the extent possible. Any person that is required to be registered as an SDR under Exchange Act Section 13(n) must register with the Commission (absent an exemption), regardless of whether that person is also registered with the CFTC under the Commodities Exchange Act as a swap data repository. The Commission believes that a person that registers with the Commission as an SDR is likely to also register with the CFTC as a swap data repository. Prior to the Commission’s 2016 adoption of the rules at issue, and as mandated by Section 712 of the Dodd-Frank Act, the Commission staff and CFTC staff consulted and coordinated with one another regarding their respective Commissions’ rules regarding SDRs and swap data repositories. Commission staff also consulted and coordinated with other prudential regulators.

5. Effect on Small Entities

The rules will not have a significant economic impact on a substantial number of small entities.

6. Consequences of Not Conducting Collection

The rules are intended to permit U.S. and non-U.S. regulators and other authorities to access SBS information in connection with overseeing the SBS markets and its participants, monitoring and controlling of risks including systemic risks, and promoting compliance with

applicable requirements. A failure to collect this information would impinge upon the ability of regulators and other authorities to see current information regarding the SBS market and its participants, and hence would conflict with all of those goals.

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

Because rule 13n-4(b)(9), consistent with the Exchange Act, requires SDRs to make SBS information available “upon request” of a regulator or other authority, it is to be expected that SDRs will make available such information more often than quarterly. This collection of information is necessary, however, to ensure that regulators and other authorities have timely access to information in connection with the oversight of the SBS market and its participants.

8. Consultations Outside the Agency

The required Federal Register notice with a 60-day comment period soliciting comments on this collection of information was published. No public comments were received.

9. Payment or Gift

Not applicable.

10. Confidentiality

SBS data provided by an SDR to a regulator or other authority pursuant to this provision will be subject to the confidentiality protections specified in an MOU or other arrangement between the Commission and the recipient entity.

The Commission will make public the requests for a determination that an authority is appropriate to conditionally access security-based swap data, as well as Commission determinations issued in response to such requests. The Commission expects that it will make publicly available, on the Commission’s website, the MOUs or other arrangements with the Commission used to satisfy the confidentiality and indemnification conditions.

Initial notices of requests for access provided to the Commission by repositories will be kept confidential, subject to the provisions of applicable law. To the extent that the Commission obtains subsequent requests for access that would be required to be maintained by the repositories, the Commission also will keep those records confidential, subject to the provisions of applicable law.

11. Sensitive Questions

The Commission will not collect or maintain any personally identifiable information under the rule. The agency has determined that neither a PIA nor a SORN are required in connection with the collection of information.

12. Information Collection Burden

The total reporting for the rules for all respondents is 11,405 hours annually. This burden is broken down by collection of information below.

a. MOUs and other arrangements

Rule 13n-4(b)(10) provides that entities that access security-based swap data pursuant to these data access provisions are required to enter into MOUs or other arrangements with the Commission to address the confidentiality of the information provided. In some cases, those entities also would enter into MOUs or other arrangements in connection with the Commission's determination of the entity as authorized to access such data (to the extent that the entity's access is already determined by statute or by the rules). Commission staff estimates a total of 50 respondents for those provisions. Commission staff estimates that on average, recipients of data will expend 500 hours in connection with negotiating these MOUs or other arrangements, for a one-time burden of 25,000 hours. This equates to 8,333.33 hours per year when annualized over three years, or 166.67 hours per respondent when annualized over three years. Commission staff estimates no ongoing burdens associated with this requirement. This collection is a reporting type of collection.

b. Requests for Access

Rule 13n-4(b)(9)(x) provides that the Commission may determine that certain entities that are not identified by statute and/or the rules may request that they may access such security-based swap data. Commission staff estimates a total of 41 respondents (that otherwise are not identified by statute or the rules as being eligible for access) will make requests for such determination. Commission staff estimates that on average such entities will expend 40 hours in connection with such requests, for a one-time burden of 1,640 hours. This equates to 546.67 hours per year where annualized over three years, or 13.33 hours per respondent when annualized over three years. Commission staff estimates no ongoing burdens associated with this requirement. This collection is a reporting type of collection.

c. Systems Costs

SDRs may be expected to incur systems-related costs associated with setting up access to security-based swap data for regulators and other authorities. Commission staff estimates a total of three respondents will incur such costs. Commission staff estimates that on average such entities will expend 1,300 hours in connection with providing such connectivity (based on each SDR incurring 26 hours per recipient, for 50 total recipients), for a one-time burden of 3,900 hours. This equates to 1,300 hours per year where annualized over three years, or 433.33 hours per respondent when annualized over three years. Commission staff estimates no ongoing burdens associated with this requirement. This collection is a recordkeeping type of collection.

d. Providing Notification of Requests

Rule 13n-4(d) provides that SDRs must inform the Commission when they receive the first request for security-based swap data from a particular entity. Commission staff estimates a total of three respondents will incur such costs. Commission staff estimates that such entities will expend 25 hours in connection with this notice requirement (based on each SDR providing 50 notices, at half-hour per notice), for a one-time burden of 75 hours. This equates to 25 hours per year where annualized over three years, or 8.33 hours per respondent when annualized over three years. Commission staff estimates no ongoing burdens associated with this requirement. This collection is a reporting type of collection.

e. Records of requests

Rule 13n-4(d) further provides that SDRs must maintain records of all information related to initial and subsequent requests for data access. Commission staff estimates a total of three respondents for these provisions. Commission staff estimates that compliance with this provision will require 360 hours initially and 280 hours annually per respondent, for a total burden of 1,080 hours initially and 840 hours annually across three respondents. This equates to 1,200 hours per year when annualized over three years or 400 hours per respondent when annualized over three years. This collection is a recordkeeping type of collection.

f. Summary of Hourly Burdens

The table below summarizes the estimates of the total hourly burden.

Collection of Information	Type of Burden	Total Number of Respondents	Total Number of Responses Per Year	Initial Burden Per Response Per Year Per Respondent	Ongoing Burden Per Response Per Year Per Respondent	Total Annualized Burden Per Year Per Respondent	Total Reporting Burden For All Respondents
Regulator MOUs related to confidentiality	Reporting	50	1	166.67	0.00	166.67	8,333
Requests for Commission determination	Reporting	41	1	13.33	0.00	13.33	547
Systems costs incurred by SDRs	Recordkeeping	3	1	433.33	0.00	433.33	1,300
Request notification costs incurred by SDRs	Reporting	3	50	0.17	0.00	8.33	25
Records of requests, maintained by SDRs	Recordkeeping	3	1	120	280	400	1,200
Totals							11,405

13. Costs to Respondents

The total cost for all of the Rules and Form SDR for all respondents is approximately \$120,000 annually.

These costs arise in connection with rule 13n-4(d), which provides that SDRs must maintain records of all information related to initial and subsequent requests for data access.

Commission staff estimates a total of three respondents for these provisions. Commission staff estimates that compliance with this provision will require \$40,000 annually per respondent, for a total cost of \$120,000 annually across three respondents. This collection is a recordkeeping type of collection.

The table below summarizes the estimates of the total cost burden.

Collection of Information	Type of Burden	Total Number of Respondents	Total Number of Responses Per Year	Initial Cost Per Response Per Year Per Respondent	Ongoing Cost Per Response Per Year Per Respondent	Total Annualized Cost Per Year Per Year Per Respondent	Total Reporting Cost For All Respondents
Records of requests, maintained by SDRs	Recordkeeping	3	1	0	\$40,000	\$40,000	\$120,000

14. Costs to Federal Government

Not applicable.

15. Changes in Burden

These estimates have been modified from the estimates associated with prior supporting statements to reflect updated data associated with the implementation of the relevant data access regime. One key change is that the current estimates are based on there being three security-based swap data repositories (related to the systems, notification and records burdens discussed above), rather than 10 as reflected in prior estimates. The other key changes are that the current estimates are based on there being 50 total potential entities that may enter into MOUs, rather than 30 entities as reflected in prior estimates; and on there being 41 total potential entities that may request access from the Commission, rather than 21 entities as reflected in prior estimates. Those latter changes in part reflect the inclusion of non-U.S. entities among the relevant entities that may incur those burdens, as well as a lower estimate of the total number of entities that may seek access to this data (from 300 to 50 total entities).

16. Information Collection Planned for Statistical Purpose

Not applicable. The information collection is not used for statistical purposes.

17. Approval to Omit OMB Expiration Date

The Commission is not seeking approval to omit the expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.

B. Collection of Information Employing Statistical Methods.

This collection does not involve statistical methods.