we know that funds are more likely to close the gates on redemptions when market dislocation happens. That is just the time when futures commission merchants (FCMs) and customers would need access to their money, and a multi-day delay can mean catastrophe for some businesses.

For that very reason, I have concerns about the Division of Swap Dealer and Intermediary Oversight’s (DSIO) “No-Action Relief With Respect to CFTC Regulation 1.25 Regarding Money Market Funds.” While the 4(c) exemption and the DCR interpretation are clearly customer protection initiatives, the DSIO no action letter is not. This no action letter would allow FCMs to keep money in segregated customer accounts that actually would not be readily available in a crisis. Thus, while it may appear that an FCM had considerable funds available to settle customer accounts during a market dislocation, in fact that would be only an illusion; a portion of those funds could be locked down behind the prime money market funds’ gates and therefore not actually be available when needed.

I do not think that the staff of the Commission should be supporting this kind of “window dressing”—giving the impression of greater security than there actually is. If the funds are not suitable investments for customer funds, then they are not suitable for the additional capital that the FCMs put in those accounts to protect against potential shortfalls. Having lived through bankruptcies, such as MF Global and Peregrine, I have a healthy respect for the importance of having strong clearing intermediaries, and customers would need access to their funds’ gates and therefore not actually be locked down behind the prime money market funds’ gates and therefore not actually be available when needed.

Those requirements contained collections of information approved by OMB under control number 1218–0258, which OSHA publicized in the Federal Register document announcing the new rule (see 80 FR 22514–22517). This technical amendment codifies the OMB control number for the Confined Spaces in Construction standard into § 1926.5, which is the central section in which OSHA displays its approved collections under the Paperwork Reduction Act.

Additional opportunity for public comment on this rule is unnecessary because the public has already had the opportunity to comment on the collections of information and OMB has approved them. This revision of § 1926.5 is a purely technical step to increase public awareness of OMB’s approval of the collections of information.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor’s Order 1–2012 (77 FR 3912 (1/25/2012)).

List of Subjects in 29 CFR Part 1926

Occupational safety and health, Reporting and recordkeeping requirements.