



## Commodity Futures Trading Commission Privacy Impact Assessment

**System Name:** Swaps and Derivatives Database (SDDB)

**Office:** Office of Data and Technology

**Date:** September 30, 2014

### 1. Overview

On July 22, 2011, the Commodity Futures Trading Commission (“Commission” or “CFTC”) published large trader reporting rules for physical commodity swaps and swaptions (76 FR 43851). The reporting rules became effective on September 20, 2011 and are codified in Part 20 of the Commission’s regulations. The reporting rules provide the Commission with data regarding large positions in swaps and swaptions that are linked, directly or indirectly, to certain physical commodity futures contracts listed by Commission-registered exchanges.

The Swaps and Derivatives Database (SDDB) collects and maintains data and assists CFTC staff as they monitor derivatives markets. SDDB is comprised of the Swaps Position Data Repository and data from the 102S filing (“102S form”) that is required under Section 20.5 of the CFTC’s Part 20 rules. SDDB houses daily swaps position data that, upon analysis, helps CFTC staff to assess a market participant’s exposure in the commodity swaps market. Data maintained in SDDB is often analyzed by CFTC staff in concert with data from other CFTC market oversight databases, including the large trader and trade capture report databases to match trading information for market surveillance purposes.

### 2. Data Collected and Stored Within the System

2.1. What information will be collected, used, disseminated or maintained in the system?

The personally identifiable information (PII) stored in SDDB includes:

PII Categories	Collected, Generated or Maintained within the system	CFTC Employees	Members of the Public	Other (e.g. Contractors, Other government employees)
Name (for purposes other than contacting federal employees)	X		X	
Date of Birth				

Social Security Number (SSN)				
Tax Identification Number (TIN)				
Photographic Identifiers				
Driver's License				
Mother's Maiden Name				
Vehicle Identifiers				
Mailing Address	X		X	
E-Mail Address	X		X	
Phone Number	X		X	
Medical Records Number				
Medical Notes				
Financial Account Information, specifically includes:				
Trader Information	X		X	
Options Account Number				
Futures Account Number				
Special Account Reporting Number				
Certificates				
Legal Documents				
Device Identifiers				
Web Uniform Resource Locator(s)				
Education Records				
Military Status				
Employment Status				
Transactions with non-U.S. counterparties	X		X	
102S Identifier	X		X	

The SDDB handles positions data and 102S data. Positions data includes:

- (1) Long and short swap position information;
- (2) Swaption put/call, expiration date and strike price information;
- (3) Long and short non-delta adjusted swaption position information;
- (4) Long and short delta adjusted swaption position information;
- (5) Swap and swaption notional value information;
- (6) The identity of the party reporting a position;
- (7) If a counterparty position is being reported, the name of the counterparty and the 102S identifier assigned to the counterparty by the reporting party;
- (8) The reporting day;
- (9) An indicator of whether a reported position is cleared or uncleared, and, if cleared, the identifier for the cleared product assigned by the clearing organization;
- (10) The commodity underlying a reportable position;

- (11) The futures equivalent month; and
- (12) The commodity reference price.

Pursuant to the CFTC's Part 20 rules, swap dealers and clearing members (collectively, "reporting entities") and clearing organizations are required to submit regular reports regarding positions in the physical commodity swaps and swaptions that are covered by Part 20. Clearing organizations must report certain positional information regarding their clearing members' accounts. Reporting entities must report large principal positions, as well as large positions of their counterparties. Reporting entities submit the 102S form to identify counterparties in respect of which they are reporting positions. Data from the 102S form includes the counterparty's name, address and contact information, and the 102S identifier that the reporting entity has assigned to the counterparty. The 102S form contains free text fields, within which reporting entities can include information that could possibly include other forms of PII. However, any additional information provided outside of the 102S form fields is not uploaded to the SDDB.

## 2.2. What will be the sources of the information in the system?

The sources of information in the system are clearing organizations, which send the CFTC data pursuant to Section 20.3 of the Part 20 rules, and swap dealers and clearing members, which send the CFTC data and 102S forms pursuant to Sections 20.4 and 20.5 of the Part 20 rules.

## 2.3. Why will the information be collected, used, disseminated or maintained?

Information is collected, used, disseminated or maintained to enable CFTC staff to monitor the derivatives markets so that the CFTC can protect market participants and the public from fraud, manipulation, abusive practices and systemic risk and foster transparent, open, competitive and financially sound markets. In addition, the data collected under Part 20 data will be used to support the CFTC's position limits rulemaking.

## 2.4. How will the information be collected by the Commission?

Reporting parties send the data to the Commission using Secure File Transfer Protocol (SFTP). Once the CFTC receives the data, CFTC staff load the data into SDDB.

## 2.5. Is the system using technologies in ways that the CFTC has not previously employed (e.g., monitoring software)?

No. All software and technologies used are common to the Commission's current infrastructure.

## 2.6. What specific legal authorities authorize the collection of the information?

The Commodity Exchange Act, 7 U.S.C. 1a, 2, 5, 6, 6a, 6c, 6f, 6g, 6t, 12a, 19 and related rules, including large trader reporting rules for physical commodity swaps and swaptions authorize the collection of this information.

### 3. Data and Records Retention

3.1. For what period of time will data collected by this system be maintained and in what form will the data be retained?

CFTC is revising the records disposition schedules that apply to records covered by this PIA.

3.2. What are the plans for destruction and/or disposition of the information?

CFTC is revising the records disposition schedules that apply to records covered by this PIA. When it is determined that records are to be destroyed, paper records will be shredded and electronic records will be purged from systems.

### 4. Access to and Sharing of the Data

4.1. Who will have access to the information in the system (internal and external parties), and with whom will the data be shared? If contractors, are the Federal Acquisition Regulations (FAR) clauses included in the contract (24.104 Contract clauses; 52.224-1 Privacy Act Notification; and 52.224-2 Privacy Act)?

Access to SDDDB is granted to the Division of Market Oversight (DMO), Office of the Chief Economist (OCE), Division of Enforcement (ENF), and Office of Data and Technology (ODT) within CFTC. The system is not accessible outside of the CFTC network. Contractors and consultants may be granted access to SDDDB to meet contractual obligations (e.g., managing the database or providing requested data analyses). CFTC's Office of Financial Management (OFM) ensures that the contract between the CFTC and contractors contains the provisions necessary to protect and secure information to which they have access.

The information also may be shared in accordance with the applicable Privacy Act System of Records Notice, **CFTC-15, Enterprise Surveillance, Oversight & Risk Monitoring System**, 77 Fed. Reg. 58814 (September 24, 2012).

4.2. If the data will be shared outside the Commission's network, how will the data be transferred or shared?

Data from SDDDB is not shared outside of the CFTC's network, except in accordance with the CFTC-15 System of Records Notice, as described above. Such sharing may include, but is not limited to, other Federal or state law enforcement or regulatory agencies for use in meeting their statutory and regulatory requirements or with foreign law enforcement, investigatory, or administrative authorities in order to comply with requirements set forth in international arrangements, such as memoranda of understanding. If transferred or shared outside the CFTC's network, the data will be transferred in a manner designed to prevent the unnecessary and/or unauthorized disclosure of sensitive information. Such methods may include encryption of electronic information or hand delivery of documentation.

The CFTC has assigned confidential reporting numbers to reporting firms and traders to help ensure privacy of the information they provide. The Commission is prohibited under

Section 8 of the CEA, **7 USC 12**, from publicly disclosing any person's positions, transactions, or trade secrets, except under limited circumstances.

4.3. If the data will be released to the public, consultants, researchers or other third parties, will it be aggregated or otherwise de-identified (i.e. anonymized)? If yes, please also explain the steps that the Commission will take to aggregate or de-identify the data.

Other than contractors or consultants working within SDDB to fulfill their responsibilities, e.g., contactors responsible for managing the database or consultants providing requested data analyses, SDDB system data generally will not be released to the public or other third parties. Consultants are granted access to SDDB data only after signing an appropriate non-disclosure agreement (NDA) and undergoing other appropriate screening as determined by the OCE and the Office of General Counsel (OGC).

However, as described in Section 4.2, in the event that the CFTC receives lawful requests for the data from Congress or others, CFTC staff receiving the request will consult the OGC and/or the Privacy Office, as appropriate, with the goal of minimizing any release of identifiable information, and whenever possible, providing aggregated, anonymous data using strategies designed to prevent re-identification through other available information.

4.4 Do the third-party recipients of the aggregated or de-identified information have another dataset, or is there a publicly available dataset that could be used to re-identify Commission information?

As explained above, the CFTC does not expect to release SDDB system data to the public or third parties. In the event such data needs to be released through a lawful request and may be released in aggregated form, the CFTC to the greatest extent possible will use aggregation or de-identification strategies designed to prevent re-identification of such information through other available information.

4.5. Describe how the CFTC will track disclosures of information that will be shared with outside entities. The Privacy Act requires that the CFTC record the date, nature, and purpose of each disclosure of a record to any person or to another agency.

Any disclosure in PII-form outside the CFTC is unlikely. In such case, CFTC staff would confirm the legal authority to release such information, track such disclosures to outside entities by documenting, among other things, which person or party/organization made the request, the date and nature of the request, the decision made to disclose or not disclose the data and by whom, and any restrictions on further dissemination of the requested information.

4.6. Do other systems share the information or have access to the information in this system? If yes, explain who will be responsible for protecting the privacy rights of the individuals affected by the interface (e.g., System Administrators, System Developers, System Managers)?

Yes, CFTC staff using SDDB can analyze SDDB data with large trader data stored in ISS under CFTC rules in Part 17 and with transactional data stored in TSS under CFTC rules in Part 16. Analysts look at the sets of data together to monitor and enforce any

speculative position limits that have been established, and to conduct surveillance of physical commodity futures and swaps markets.

The CFTC SDDB,ISS and TSS System Managers – specifically assigned staff in ODT – are responsible for protecting the privacy rights of the individuals affected by the interface between SDDB,ISS and TSS, and do so by limiting access to the interface to those CFTC staff with a business need-to-know the information they are seeking.

## **5. Notice, Consent and Access for Individuals**

5.1. What notice will be provided to individuals about the collection, use, sharing and other processing of their personal data?

The Commission's rulemaking process and the rules themselves provide notice to individuals about the collection, and processing of personal data. To participate in the swaps market, entities are required by law to provide this type of information to the CFTC. For example, Section 20.3 of the Commission's Part 20 rules directs clearing organizations to report clearing member positions. Section 20.4 directs swap dealers and clearing members to report both their principal positions, and the positions of their counterparties. Reporting entities are required to report large principal and counterparty positions, and to submit the 102S form to identify counterparties in respect of which they are submitting position data.

In addition, this PIA and SORN **CFTC-15, Enterprise Surveillance, Oversight & Risk Monitoring System** shall appear on **the Privacy Office's CFTC website**.

5.2. What opportunities will exist for an individual to decline to provide information or to consent to particular uses of the information? If opportunities exist, how will this notice be given to the individual and how will an individual grant consent?

As noted in 5.1, entities that participate in the swaps market are required by law to provide this type of information to the CFTC. Clearing organizations and reporting entities are required to submit regular reports regarding positions in the physical commodity swaps and swaptions covered by Part 20 by Section 20.3 and 20.4, respectively. Clearing organizations are required to report certain positional information regarding their clearing members' accounts. Reporting entities are required to report large principal and counterparty positions, and to submit the 102S form to identify counterparties in respect of which they are submitting position data.

5.3. What procedures will exist to allow individuals to gain access to their information and request amendment/correction, and how will individuals be notified of these procedures?

A reporting entity that has submitted a 102S form for a counterparty is required to update the 102S form if the information the form contains is no longer accurate. Individuals seeking access to records about themselves, or seeking amendment of records about themselves should address a written inquiry to the Office of General Counsel, Paralegal Specialist, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

## 6. Maintenance of Controls

6.1. What controls will be in place to prevent the misuse of the information by those having authorized access and to prevent unauthorized access, use or disclosure of the information?

Commission staff are trained to recognize the sensitive nature of SDDB information. Access to SDDB is protected through administrative, technical, and physical controls. Administrative controls, such as least privilege, are in place to only allow individuals with a direct business need to access the system. Access is controlled by the individual's unique username and password which are monitored using audit logs that track access and record changes (e.g., print, edit, extract). Read-only access is the most commonly granted permission. Physical controls permit only specifically designated employees or contractors to be granted access to server rooms.

6.2. While the information is retained in the system, what will the requirements be for determining if the information is still sufficiently accurate, relevant, timely, and complete to ensure fairness in making determinations?

The information comes in to the CFTC on a constant basis and is automatically historical once it enters SDDB. The information is time stamped. Parties with reporting obligations under CFTC rules are responsible for ensuring that information provided to the CFTC is accurate and, therefore, for updating information as needed. If CFTC staff determine that data submitted by a reporting party is missing or incorrect, they contact the source to have the data re-submitted. Appropriate Commission personnel will routinely maintain and update the information in the system with any new information provided by a 102S filing, or a 20.3 or 20.4 filing.

6.3. Will this system provide the capability to identify, locate, and monitor individuals? If yes, explain.

The information provided does not allow the CFTC to monitor an individual's movement or actions.

6.4 Does this system comply with FISMA requirements to help ensure that information is appropriately secured?

The Commission follows all applicable Federal Information Security Management Act (FISMA) requirements to ensure that information is appropriately secured. The system resides within the CFTC private infrastructure under the General Support System which is categorized as moderate using Federal Information Processing Standard 199.

6.5. Describe the privacy training provided to users either generally or specifically relevant to the program or system.

All CFTC staff receive detailed privacy training on an annual basis and are subject to agency-wide procedures for safeguarding PII. In addition, many staff receive additional training focused on their specific job duties, for example, Division of Enforcement staff regularly receive training concerning privacy rights of individuals and the importance of safeguarding information, and system administrators receive role-based training.

## 7. Privacy Act

7.1. Will the data in the system be retrieved by a personal identifier in the normal course of business? If yes, explain. If not, can it be retrieved by a personal identifier?

Yes, records can be retrieved by name and unique 102S Identifier.

7.2 Is the system covered by an existing Privacy Act System of Records Notice (“SORN”)? Provide the name of the system and its SORN number, if applicable.

Yes, **CFTC – 15 Enterprise Surveillance, Oversight & Risk Monitoring System.**

## 8. Privacy Policy

8.1. Confirm that the collection, use and disclosure of the information in this system have been reviewed to ensure consistency with the CFTC’s Privacy Policy on [www.cftc.gov](http://www.cftc.gov).

Yes, the following sub-header of the CFTC privacy policy includes language that is relevant to the SDDB:

- **Sharing of Your Information**

## 9. Privacy Risks and Mitigation

9.1. What privacy risks are associated with the collection, use, dissemination and maintenance of the data? How have those risks been mitigated?

The CFTC has adopted the following protections, in addition to those stated in Section 6 above and others, to appropriately safeguard SDDB information:

- SDDB data is confidential; therefore, SDDB allows access to authorized users only.
- The SDDB System Manager grants users access on a need-to-know basis using controls in the CFTC’s Microsoft Active Directory.
- The electronic formatted records are transmitted to the Commission using Secure FTP (SFTP).
- Access to any SDDB data provided to other systems (e.g., ISS) is role-based and the administrators of the connected systems have been vetted by ODT.