

COMMENT

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August 17, 2009

VIA ELECTRONIC MAIL

David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Received CFTC
Records Section
8/18/09

2009 AUG 18 PM 3 22
OFFICE OF THE SECRETARIAT

Re: Commodity Futures Trading Commission's Advanced Notice of Proposed Rulemaking on Account Ownership and Control Report, RIN 3038-AC63, 74 Fed. Reg. 31642 (July 2, 2009)

Dear Mr. Stawick,

Foley & Lardner LLP appreciates the opportunity to provide comments to the Commodity Future Trading Commission ("CFTC") on the above-referenced advanced notice of proposed rulemaking on Account Ownership and Control Reports ("Advanced Notice"). In this Advanced Notice, the CFTC proposes to create an Ownership and Control Report ("OCR") which will serve as an ownership, control, and relationship directory for every trading account number reported to the CFTC through the exchanges' Trade Capture Reports.

The CFTC is proposing that the exchanges gather the information for, and submit, the OCR to the CFTC weekly. The OCR would include, among other account identifying information, the last four digits of the Social Security number or taxpayer identification number of a trading account owner or controller. We understand the importance of gathering appropriate account information to enhance the effectiveness of market and trade practice surveillance programs. Our comments are limited to one specific issue: ensuring that all identifying information, including highly sensitivity Social Security number information, will be treated as confidential and not subject to public disclosure.

Thus, we recommend that the CFTC address confidentiality concerns as it moves forward with its rulemaking. For example, CFTC Rule 145.5, 17 CFR § 145.5, entitled "Disclosure of Nonpublic Records," generally provides that the CFTC will decline to publish or publicly disclose non-public records specified within the rule, including as set out in paragraph (d) account-related information gathered through various specified large trader and position reporting forms. To ensure that the information collected by the exchanges and submitted through the OCR is likewise protected from public disclosure, we ask that the CFTC amend Rule 145.5(d) as part of this rulemaking to include in the list of non-public records protected against disclosure the information collected for and included in the OCR.

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We also ask that the CFTC incorporate into any rules it may adopt to implement the OCR proposal a requirement that the exchanges, in gathering this information, have a duty to treat it as non-public and confidential.

Foley & Lardner LLP appreciates the opportunity to comment, and we thank you for your consideration of our concerns. Should you have any questions, please contact me at (312) 832-5179.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathryn M. Trkla", with a long horizontal flourish extending to the right.

Kathryn M. Trkla