



Commodity Futures Trading Commission Privacy Impact Assessment

System Name: eLaw System

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I. Data in the System

1. Generally describe what information will be collected in the system.

Information on ongoing operations is generated by the sources specified below.

2. What are the sources and types of the information in the system?

Individuals subject to eLaw data collection requirements and processing are those involved in any aspect of Commodity Futures trading. Full descriptions of these systems of records are provided in the Federal Register under the title of Commodity Futures Trading Commission.

- CFTC-1 Matter Register and Matter Indices
- CFTC-2 Correspondence Files
- CFTC-3 Docket Files
- CFTC-9 Confidential information obtained during employee background investigations. Deleted but covered by OPM/GOVT-1
- CFTC-10 Exempted Investigatory Records
- CFTC-15 Large Trader Report Files
- CFTC-16 Enforcement Case Files
- CFTC-17 Litigation Files-OGC
- CFTC-18 Logbook on Speculative Limit Violations
- CFTC-20 Registration of Floor Brokers, Floor Traders, Futures Commission Merchants, Introducing Brokers, Commodity Trading Advisors, Commodity Pool Operators, Leverage Transaction Merchants, Agricultural Trade Option Merchants and Associated Persons

- CFTC-28 SRO Disciplinary Action File
- CFTC-29 Reparations Complaints
- CFTC-31 Exempted Closed Commission Meetings
- CFTC-32 Exempted Office of the Inspector General Investigative Files
- CFTC-35 Interoffice and Internet Email
- CFTC-39 Freedom of Information Act Requests
- CFTC-40 Privacy Act Requests
- CFTC-41 Requests for Confidential Treatment
- CFTC-42 Debt Collection Files

Note that the following four systems of records identified above have been exempted as set forth in their descriptions from certain requirements of the Privacy Act, as authorized under 5 U.S.C. 552a(k).

- CFTC-9
- CFTC-10
- CFTC-31
- CFTC-32

3. How will the information be used by the Commission?

The information will be used by the Commission in the ongoing oversight and investigation of business practices as they relate to the commodity futures and options markets.

4. Why is the information being collected? (Purpose)

The information is collected to fulfill the CFTC mission which is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options, and to foster open, competitive, and financially sound commodity futures and options markets.

II. Access to the Data

1a. Who will have access to the information in the system (internal and external parties)?

The Privacy Act and the Commission's rules permit disclosure of individual records if it is for a routine use, which is defined as a use of a record that is compatible with the purpose for which it was collected. Unless otherwise indicated, the following routine uses of Commission records are applicable to all CFTC systems.

1. The information may be used by the Commission in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act or in any other action or proceeding in which the Commission or its staff participates as a party or the Commission participates as amicus curiae.

2. The information may be given to the Justice Department, the Securities and Exchange Commission, the United States Postal Service, the Internal Revenue Service, the Department of Agriculture, the Office of Personnel Management, and to other Federal, state or local law enforcement or regulatory agencies for use in meeting responsibilities assigned to them under the law, or made available to any member of Congress who is acting in his capacity as a member of Congress.

3. The information may be given to any board of trade designated as a contract market by the Commission if the Commission has reason to believe this will assist the contract market in carrying out its responsibilities under the Commodity Exchange Act, 7 U.S.C. 1, et seq., and to any national securities exchange or national securities association registered with the Securities and Exchange Commission, to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. 78a, et seq.

4. At the discretion of the Commission staff, the information may be given or shown to anyone during the course of a Commission investigation if the staff has reason to believe that the person to whom it is disclosed may have further information about the matters discussed therein, and those matters appear relevant to the subject of the investigation.

5. The information may be included in a public report issued by the Commission following an investigation, to the extent that this is authorized under section 8 of the Commodity Exchange Act, 7 U.S.C. 12. Section 8 authorizes publication of such reports but contains restrictions on the publication of certain types of

sensitive business information developed during an investigation. In certain contexts, some of this information might be considered personal in nature.

6. The information may be disclosed to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, or a grant or other benefit by the requesting agency, to the extent that the information may be relevant to the requesting agency's decision on the matter.

7. The information may be disclosed to a prospective employer in response to its request in connection with the hiring or retention of an employee, to the extent that the information is believed to be relevant to the prospective employer's decision in the matter.

8. The information may be disclosed to any person, pursuant to Section 12(a) of the Commodity Exchange Act, 7 U.S.C. 16(a), when disclosure will further the policies of that Act or of other provisions of law. Section 12(a) authorizes the Commission to cooperate with various other government authorities or with "any person."

1b. 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)?

No.

2. What controls are in place to prevent the misuse of the information by those having authorized access?

System administrators will assure that only users that management authorizes have access to automated eLaw functions and data. Username and passwords will be used and each user will be subject to eLaw and GSS Rules of behavior. These rules of behavior are documented in the eLaw Security Plan and require users to be adequately trained regarding the security of their systems. The Security Plan also requires a periodic assessment of management, operational, and technical controls to enhance data integrity and accountability. System users must sign statements acknowledging that they have been trained and understand the security aspects of eLaw.

3. 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? (i.e., System Administrators, System Developers, System Managers)

No other systems share this information.

4. Will other agencies share data or have access to data in this system?

Yes. Please see item II., 1a, above.

5. Do individuals have the opportunity to decline to provide information or to consent to particular uses of the information? If yes, how is notice given to the individual? (Privacy policies must clearly explain where the collection or sharing of certain information may be optional and provide users a mechanism to assert any preference to withhold information or prohibit secondary use.)

Individuals may decline and/or consent in accordance with their legal rights. Individuals seeking to determine whether a system of records contains information about themselves, or seeking access to records about themselves, or contesting the content of records about themselves contained in a system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone (202) 418-5105.

III. Attributes of the Information

1. Explain how the use of the information is both relevant and necessary to the purpose for which the system is being designed.

The information is used to fulfill the CFTC mission which is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options, and to foster open, competitive, and financially sound commodity futures and options markets.

2. How will data be retrieved? Can it be retrieved by personal identifier? If yes, explain. (A personal identifier is a name, Social Security Number, or other identifying symbol assigned to an individual, i.e., any identifier unique to an individual.)

In general, data will be retrieved by key word; however, the system has the ability to retrieve by date, personal identifier (e.g., name), or company affiliation.

IV. Maintenance of Administrative Controls

1. Has a record control schedule been issued for the records in the system? If so, provide the schedule number. What are the retention periods for records in this system? What are the procedures for destroying the records at the end of the retention period?

The retention and disposal of records varies with each system of records and is described below and documented in the Federal Register / Vol 66, No. 154 / Thursday August 9, 2001.

CFTC-1

The records are destroyed when no longer needed.

CFTC-2

The retention and disposal period depends on the nature of the correspondence. For example, correspondence with the Commission that pertains to the programs and policies of the Commission becomes part of the agency's central files and is kept permanently. Other correspondence may be kept for between one and 10 years, depending on subject matter.

CFTC-3

Docket files in reparations cases are maintained for 10 years after final disposition of the case. Docket files in enforcement cases are maintained for 15 years after final disposition of the case.

CFTC-10

Maintained until exemption is no longer necessary, then **filed** in the appropriate nonexempt system.

If an investigatory matter is closed without institution of a case, the files, other than opening and closing reports, are shipped to off-site storage within 90 days of closing. Records are maintained in off-site storage for 5 years, and then destroyed.

If the Commission files an injunctive or administrative action or an appellate matter, the related investigatory files and records are retained in the office conducting the litigation; the files and records remain exempt from disclosure under the Privacy Act. When the case is concluded, the investigatory materials are stored and disposed of on the same schedule as the related non-exempt case files (see CFTC-16 and CFTC-17).

The Office of General Counsel retains copies of certain investigatory materials indefinitely.

CFTC-15

CFTC Form 40, CFTC Form 102, correspondence, memoranda, etc. are retained on the premises until the account has been inactive for 5 years and are then

destroyed. Form **01**, 03, and 04 reports are maintained for 6 months on the premises and then held in off-site storage for 5 years before being destroyed. The computer file is maintained for 10 years for Form **01**, 03, and 04. Clearing member positions and transactions are maintained for 3 years. Trader code numbers and related information are maintained for 5 years after a trader becomes non-reportable. Account numbers assigned by an FCM are maintained on the system for 1 year after the account is no longer reported.

CFTC-16

After an action is complete, the complaint and any final decision or dispositive orders are kept indefinitely at the headquarters office. Most case files are destroyed after 15 years; unique, precedent-setting cases are forwarded to the National Archives and Records Administration for permanent retention after 20 years.

CFTC-17

Maintained in the active files until the action is completed, including final review at the appellate level. Thereafter, transferred to the inactive case files, where a skeletal record of pleadings, briefs, findings, and opinions and other particularly relevant papers may be maintained. These records are maintained on premises for five years, and then transferred to off-site storage. Most case files are destroyed after 15 years; unique precedent setting cases are destroyed after 20 years. A copy of some of the documents may be kept in precedent files for use in later legal research or preparation of filings in other matters.

CFTC-18

Maintained on the premises for 5 years, then held off-site for 15 years before being destroyed.

CFTC-20

Hard copies of applications, biographical supplements, other forms, related documents and correspondence are maintained on the NFA's premises, as applicable, for two years after the individual's registration(s), or that of the firm(s) with which the individual is associated as an associated person or affiliated as a principal, becomes inactive. Hard copies of records are then stored at an appropriate site for eight additional years before being destroyed.

NFA also maintains an index and summary of the hard copy records of this system in a database, the Membership, Registration, Receivables System (MRRS). The MRRS records are maintained permanently and are updated periodically as long as the individual has a registration application pending, is

registered in any capacity, or is affiliated with any registrant in any capacity. MRRS records on persons who may apply may be maintained indefinitely.

CFTC-28

Retained for 10 years.

CFTC-29

The records are maintained for 10 years after the case is closed, except that complaints, decisions, and Commission opinions and orders, are retained indefinitely.

CFTC-31

Maintained on the premises for at least the statutory period required by the Sunshine Act and Commission regulations (i.e., at least two years after each meeting or at least one year after the conclusion of any agency proceeding with respect to which meeting was held, whichever is later); transferred to the National Archives as permanent records when 20 years old.

CFTC-32

The Office of the Inspector General Investigative Files and the index to the files are destroyed twenty years after the case is closed.

CFTC-35

Records on magnetic tape are retained for four weeks, and then destroyed as the tape is written over with new information. Records are retained on the mail servers until the sender and receiver delete the information from the email system. Internet email information that is received by the postmaster due to an error in delivery is considered temporary and is destroyed after the problem is corrected. When an employee leaves the Commission, the employee's mailbox is deleted unless the employee or the employee's administrative officer requests that the mailbox be retained in order to recover work-related information.

CFTC-39

FOIA requests are retained in accordance with General Records Schedule 14 of the National Archives and Records Administration.

CFTC-40

Privacy Act requests are retained in accordance with General Records Schedule 14 of the National Archives and Records Administration.

CFTC-41

Records are retained for 20 years and then destroyed.

CFTC-42

Records are retained in accordance with General Records Schedule 6.

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

Access controls, quality controls, and audit trails, where necessary, ensure information accuracy, relevance, timeliness, and completeness.

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

No.

4. Under which System of Records Notice (SORN) does the system operate? Provide the name of the system and its SORN number, if applicable.

Please see item I. 2, above.