



## Commodity Futures Trading Commission Privacy Impact Assessment

**System Name:** Integrated Surveillance System (ISS)

**Office:** Office of Data and Technology

**Date:** September 30, 2014

### 1. Overview

The Integrated Surveillance System (ISS) receives and stores data, and performs various mission-critical futures and options market analyses for the CFTC. CFTC staff in the Division of Market Oversight (DMO), Division of Enforcement (DOE), Office of the Chief Economist (OCE) and the Division of Clearing and Risk (DCR) rely on ISS to keep them apprised of market events and potential problems. ISS transforms end-of-day position reports electronically filed with the Commission by exchange clearing members, Futures Commission Merchants (FCMs), Designated Contract Markets (DCMs) and foreign brokers (collectively called “reporting firms”) into powerful tools used to perform a variety of analytical functions across the surveillance program. ISS allows the agency to monitor the daily activities of large traders, key price relationships, and relevant supply and demand factors.

ISS data enables the agency to analyze the composition of the market, such as the participation in the market by commercial versus non-commercial traders and the open interest held by certain occupational categories. ISS collects and processes daily futures and options position data for large traders from reporting firms and daily open interest, volume, price and clearing member data from exchanges. This data is supplemented by related cash market price data from a variety of sources. In addition, ISS receives and stores identifying information concerning each large trader and reportable account. ISS data is also used to provide public reports, such as the Commitment of Traders report and the Cotton on Call report.

There are several key reports in ISS which are used to provide a variety of insightful views into the data. For example, ISS data viewed within the Commodity Grouping Tool, Trader Grouping Tool, and Violators of Position Limits Tool allows CFTC analysts to monitor and enforce the speculative position limits that have been established.

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

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

ISS contains several types of data used for analysis. First, it contains large trader positions, which comprise ten years of futures and options positions for large traders. These position records are loaded each day from reporting firms. ISS also contains

market data, which is 25 years of open interest, volume and prices, and is also updated daily by those financial exchanges that operate markets overseen by the CFTC. Lastly there is a link to two years of intraday trade data which is stored in another CFTC system, the Trade Surveillance System (TSS). The lowest level for which positions are reported in ISS is the Special Account level. Special Accounts are an aggregation of every account at a reporting firm controlled by the same entity.

Personally identifiable information (PII) stored by ISS 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				
Personal Mailing Address	X		X	
Personal E-Mail Address	X		X	
Personal Phone Number	X		X	
Medical Records Number				
Medical Notes				
Financial Account Information, specifically includes:				
Trader Information	X		X	
Special Account Reporting Number	X		X	
Certificates				
Legal Documents				
Device Identifiers				
Web Uniform Resource Locator(s)				
Education Records				
Military Status				
Employment Status (e.g., job title)	X		X	
Foreign Activities				

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

The sources of the information are the reporting firms, the entity or individual (e.g., customer/trader) on whom the record is maintained (via **Form 40**) and FCMs through which the entity or individual trades. Information may also be provided by correspondence and memoranda prepared by the Commission or its staff, and by correspondence from firms, agencies, or individuals requested to provide information on the customer/trader.

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

As explained above, ISS data keeps CFTC staff apprised of market events and potential problems, allowing staff to monitor the daily activities of large traders, key price relationships and relevant supply and demand factors, and conduct analyses to protect markets and the public. CFTC staff use the ISS's automated and manual reporting capabilities to closely and actively monitor the futures and options market activity of traders whose positions size is large enough to potentially impact orderly market operation. Further, ISS is used to support enforcement litigation by helping CFTC investigators with their research. Users can research internal and external referrals and check ISS data to focus their investigative activities and independently validate data collected during litigation discovery.

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

ISS collects information in the following ways:

- a. Traders submit Statements of Reporting Trader (**Form 40/40S**) to the CFTC electronically, generally by email in PDF format or via fax;
- b. Large traders electronically submit large trader reporting forms ("Series 04 Forms": **204** and **304**);
- c. FCMs electronically submit "Special Accounts" (**CFTC Form 102**, 102A/B/S);
- d. Exchanges provide permanent record data about commodities (**Part 16 of the CFTC's regulations**) via secured file transfer protocol (SFTP);
- e. FCMs submit large trader end-of-day position data (**Part 17 of the CFTC's regulations**) via **position entry for reportable traders ("PERT Online")** or by SFTP; and
- f. The CFTC collects, in paper form or electronically, correspondence and memoranda of telephone conversations between the Commission and the entity or individual or other agencies dealing with matters of official business concerning the entity or individual.

2.5. Is the system using technologies in ways that the Commission 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. 1 *et seq.*, including Sections 4g, 4i, and 8 of that Act, at 7 U.S.C. 6g, 6i and 12, and the rules and regulations promulgated thereunder 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 Form 40/40S and any supporting documentation and trader code numbers and related information are maintained in ISS and destroyed or deleted when data for a trader has not been received for ten years. CFTC Form 102 and 102/A/B/S and any supporting documentation and account numbers assigned by an FCM are maintained in ISS and destroyed or deleted when data for an account has not been received for three years. Series 04 Forms are maintained for ten years. Large trader positions and transactions (Part 17) are maintained for ten years. Open interest and price data (Part 16) are maintained indefinitely.

Paper records created from faxes, emails and regular mail will be retained in file folders, loose-leaf binders and similar paper filing methods. Records in paper form will be maintained in lockable offices and filing cabinets.

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

Paper files that have been scanned into ISS will be placed in shredding bins after 30 days. Electronic records will be deleted if they have exceeded their retention period. For additional information, refer to the **CFTC's records disposition schedule**, record code 511.

### 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 clauses included in the contract (24.104 Contract clauses; 52.224-1 Privacy Act Notification; and 52.224-2 Privacy Act)?

Through security features built into ISS, access to information in this system is limited to those individuals whose official duties require access. At the Commission, only individuals designated by DMO, DOE, OCE, DCR and Office of Data and Technology (ODT) will be regularly allowed access to the information. These individuals will include employees of the Commission, developers and administrators, and possibly others with a legitimate and confirmed need to know the information to perform their Commission responsibilities. CFTC contractors with access to ISS are required to comply with the Privacy Act contractually through either FAR terms or other terms and conditions. The Office of the Executive Director's Financial Management Branch (FMB) ensures that the contract between the Commission and contractors contains the provisions necessary to protect and secure information to which the contractors have access. Direct ISS access is not granted to external parties, however ISS does have an interconnection to the Federal Energy Regulatory Commission (FERC). The CFTC securely transfers new data received from the relevant contract markets to FERC on a regular basis. The **memorandum of understanding between the agencies** is available on both CFTC and FERC websites.

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?

ISS identifiable data will not be shared outside of the Commission's network, except in accordance with the CFTC-15 System of Records Notice, including with FERC, as described above. If transferred or shared outside the Commission'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.

Some data from ISS is aggregated and/or de-identified for inclusion in CFTC public reports. The weekly **Cotton on Call** and **Commitment of Traders** reports and daily **Strike Price Format** reports posted to the Commission's public website use aggregation or de-identification strategies that will prevent re-identification of such information through other publicly available information.

- 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.

Information that the CFTC reports publicly is aggregated by the classifications of the types of work that the traders perform (e.g., swap dealer, money manager) to decrease the likelihood that it can be linked to an individual. For example, the Commitment of Traders report does not list positions held by four or fewer traders to mitigate the chance of re-identification. Instead, the report tallies the percent of open interest held by four or fewer traders by gross and net positions.

- 4.4. Do the 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 described above, the CFTC uses techniques to aggregate or de-identify ISS information that is released to the public with the goal of preventing re-identification of such information through other publicly 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.

The daily and weekly aggregated reports posted to the Commission's public website are each dated and the purpose of each is described on the webpage that features it. Any disclosure in PII-form outside the CFTC, with the exception of the data transfers to FERC described above, is unlikely.

Additionally, the CFTC's Office of General Counsel (OGC) handles all Privacy Act and Freedom of Information Act (FOIA) requests and OGC tracks any disclosures made pursuant to such requests. OGC documents, 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 it was made.

- 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)?

ISS integrates with CFTC systems TSS, Stressing Positions at Risk (SPARK), and Swaps Position Data Repository. ISS includes a Privacy Notice immediately following the log in screen that discusses the importance of maintaining the confidentiality and integrity of its contents. End users and the ISS System Administrators are responsible for protecting the privacy rights of individuals whose information may be accessible through these interfaces. In addition, general privacy training is mandatory for all CFTC employees on an annual basis.

ODT staff regularly monitor the information travelling to and stored by the CFTC. They are responsible for detecting unusual system behavior and raising any privacy concerns with the CFTC Privacy Office.

## **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?

Following is the Privacy Act Notice on Form 40:

“The Privacy Act of 1974 says that each Federal Agency that asks you for information must tell you the following:

1. Its legal right to ask for the information and whether the law says you must give it;
2. What purpose the agency has in asking for it, and the use to which it will be put; and
3. What could happen if you do not give it.

For the large trader reporting system of the Commodity Futures Trading Commission, the law covers the following:

1. The CFTC form 40.
2. The Series 04 reports.
3. Any questions concerning records of your cash, futures, and option positions which you are required to maintain by the regulations under the Commodity Exchange Act.

The CFTC's legal right to ask for information from traders with large futures or option market positions is granted in sections 4i and 8 of the Commodity Exchange Act (7 U.S.C. 6i and 12). Disclosure of the information called for is mandatory and failure to comply may result in

the imposition of criminal or administrative sanctions (see e.g., 7 U.S.C. 9, 213a-1, 13(c)).

The information requested is used generally in the Commission's market surveillance activities to provide information concerning the size and composition of the commodity futures or option markets, and to permit the Commission to monitor and enforce the speculative position limits that have been established. The complete listing of routine uses, in accordance with the Privacy Act, 5 U.S.C. §522a, and the Commission's rules thereunder, 17 CFR Part 146, of the information contained in these records is found in the Commission's . . . notice[s] of its system of records.

Data from the forms may be used by the Commission to conduct investigations or litigation and, in limited circumstances, may be made public in accordance with provisions of the Commodity Exchange Act. It may also be disclosed to other government agencies and to contract markets to meet their responsibilities assigned to them by law."

The other CFTC forms that solicit information in identifiable form for CFTC systems of records contain similar privacy notices. This PIA shall also 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?

Notice is given in the introductory paragraphs of Form 40 and 40S as well as during the online submission process for Form 102 and 102A/B/S. Individuals and firms must provide certain information to participate in the financial markets covered by the CEA.

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?

Traders are instructed to complete and review their responses to the questions on Form 40 prior to submitting to the CFTC. Each trader is responsible for the accuracy of his or her responses and can re-submit Form 40 if he or she would like to make an amendment or correction. Those entities required to complete a Form 40S are under a continuing obligation, per direction in the special call, to update and maintain the accuracy of the information submitted on Form 40S by periodically updating the information through the CFTC portal or by SFTP transmission. Similarly the FCMs, major swaps participants and swap dealers are responsible for submitting a corrected Form 102/A/B/S to the CFTC if necessary.

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 ISS information. Records are protected from unauthorized access and improper use through administrative, technical and physical security measures. Technical security measures within CFTC include restrictions on computer access to authorized individuals, unique usernames, strong passwords that are frequently changed, use of encryption for certain data types and transfers, and regular review of security procedures and best practices to enhance security. Username and passwords are also monitored using audit logs.

Remote access to ISS is only available via the CFTC's virtual private network (VPN). Further, access to records is limited by security features built into ISS to those individuals whose official duties require access. Physical measures include restrictions on building access to authorized individuals and maintenance of records in lockable offices and filing cabinets.

- 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?

End of day position information and other information stored in ISS is historical data. CFTC uses technical controls to help ensure that information is not altered during transmission to the CFTC. Under CFTC rules, reporting firms and individual traders are responsible for ensuring that information provided to the CFTC is accurate and, therefore, for updating information as needed. If CFTC staff determine that options records or other data submitted by the reporting firms is missing or incorrect, they contact the source to make a correction or have the data re-submitted.

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

No. The information provided does not allow the CFTC to monitor an individual's movement or actions.

- 6.4. Are all IT security requirements and procedures required by Federal law being followed to ensure that information is appropriately secured?

Yes. The CFTC follows the National Institute of Standards and Technology (NIST) Special Publication 800-53, 'Recommended Security Controls for Federal Information Systems' to secure its systems as required by the Federal Information Security Management Act (FISMA). A security assessment of ISS was conducted by the CFTC ODT Security Team in accordance with the Office of Management and Budget Circular A-130, Appendix III, Security of Federal Automated Information Resources and NIST Special Publication 800-37, Guide for the Security Certification and Accreditation of Federal Information Systems. ISS received certification and accreditation (C&A) on June 27, 2013.

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

Commission personnel are subject to agency-wide procedures for safeguarding PII and receive annual privacy and security training. 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. CFTC Form 40/40S, 102 and 102A/B/S, correspondence and other miscellaneous information are maintained directly under the name of the reporting trader. The large trader reporting forms are maintained by identifying code number and can be retrieved by unique 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 Commission's Privacy Policy on [www.cftc.gov](http://www.cftc.gov).

Yes, the following sub-headers of **the CFTC privacy policy** are relevant to ISS:

- If You Choose to Send Us Personal Information
- 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?

Privacy is an important consideration particularly when CFTC systems interface with external systems. The CFTC has adopted the following protections, in addition to those stated above in Section 6 and others, to appropriately safeguard ISS information:

- ISS data is confidential; therefore, the CFTC has limited access to ISS information strictly to those with a need-to-know. Access is authorized based upon an individual's role and responsibility. There are six types of user roles:
  - Read Only users. These users can read data in ISS but cannot make changes.

- CFTC Economists. These users have the ability to review data in ISS. They can also enter and update the Form 40/40S (Trader) and Forms 102 and 102A/B/S (Special Accounts) data as well as manage Cash Series Data.
- Margin Users. A group created for DSIO users with read access to ISS data.
- Cotton On Call Users. Users who have this role can, in addition to the access they have from their other roles, run and update the Cotton On Call report that appears on CFTC.gov.
- Data Administrator. This role manages the data load process and the internal data cleansing processes. Data administrators can also enter and update the Form 40 (Trader) and Form 102 (Special Account) data.
- System Administrator. This role manages security inside of the application.
- Whenever ISS information is accessible through other systems (e.g., TSS), access to that information continues to be role-based. ODT has vetted the administrators of the connected systems.
- The CFTC's interconnection with FERC is encrypted and kept confidential pursuant to **the MOU between the agencies**. Any information requested and furnished pursuant to the MOU by the CFTC to the FERC shall be kept confidential and non-public, and shall not be disclosed or made available by the FERC to any other person except in accordance with section 8 of the CEA, 7 U.S.C. § 12.