CFTC-16

SYSTEM NAME:

Enforcement Case Files.

SYSTEM LOCATION:

This system is located in the Division of Enforcement in the Commission's principal office at Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, and in the Division of Enforcement in the regional offices in Chicago at 525 West Monroe Street, Suite 1100 Chicago, IL 60661; in Kansas City at Two Emanuel Cleaver II Blvd., Suite 300, Kansas City, MO 64112; and New York at 140 Broadway, 19th Floor, New York, NY 10005.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals or firms against whom the Commission has taken enforcement action based on violations of the Commodity Exchange Act or the rules and regulations promulgated thereunder.

b. Individuals whom the Commission staff has identified as relevant to an enforcement investigation, such as complainants, witnesses and counsel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of various public papers filed by or with the Commission or the courts in connection with administrative proceedings or injunctive actions brought by the Commission. Records include, at a minimum, a copy of the complaint, motions filed, exhibits and the final decision, and order.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These files are necessary for the orderly and effective conduct of litigation authorized under the Commodity Exchange Act and other Federal statutes. The Commodity Exchange Act, 7 U.S.C. 1 *et seq.,* including section 6c of that Act at 7 U.S.C. 13a-1, section 6(c) of that Act at 7 U.S.C. 9, and the rules and regulations promulgated thereunder.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be disclosed in accordance with the blanket routine uses numbered 1 through 19 that appear at the beginning of the Commission's compilation of its systems of records notices and are set out below.

1. 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. Information may be disclosed to the Department of Justice, 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, local, territorial or Tribal law enforcement or regulatory agencies for use in meeting their statutory and regulatory requirements.

3. Information may be given to any "registered entity," as defined in section 1a of the Commodity Exchange Act, 7 U.S.C. 1, *et seq.* ("the Act"), if the Commission has reason to believe that such information will assist the registered entity in carrying out its responsibilities under the Act. Information may also be given to any registered futures association registered under section 17 of the Act (*e.g.,* the National Futures Association) to assist it in carrying out its self-regulatory responsibilities under the Act, 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, 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. 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. 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. 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. 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."

9. Where information, either alone or in conjunction with other information indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant information may be disclosed to the appropriate Federal, State, local, territorial, Tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

10. Information may be disclosed to the General Services Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

11. Information may be disclosed to the National Archives and Records Administration for the purpose of records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

12. Information may be disclosed to foreign law enforcement, investigatory, or administrative authorities in order to comply with requirements set forth in international arrangements, such as memoranda of understanding.

13. Information may be disclosed to contractors, grantees, volunteers, experts, students, and others performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government when necessary to accomplish an agency function.

14. Information may be disclosed to the Merit Systems Protection Board, including the Office of Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems.

15. Information may be disclosed to the Department of Justice or in a proceeding before a court, adjudicative body, or other administrative body which the agency is authorized to appear, when:

a. The agency, or any component thereof; or

b. Any employee of the agency in his or her official capacity; or

c. Any employee of the agency in his or her official capacity where the Department of Justice or the agency has agreed to represent the employee; or

d. The United States, when the agency determines that litigation is likely to affect the agency or any of its components;

Is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the agency is deemed by the agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

16. Information may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, or at the request of, the individual who is the subject of the record.

17. Information related to any traders or the amount or quantity of any commodity purchased or sold by such traders may be disclosed to any committee of either House of Congress upon its request, acting within the scope of its jurisdiction, pursuant to the Commodity Exchange Act, 7 U.S.C. 1 *et seq.,* including Section 8(e) of such Act at 7 U.S.C. 12, and the rules and regulations promulgated thereunder.

18. Information may be disclosed to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding.

19. Information may be disclosed to appropriate agencies, entities, and individuals when:

a. The Commission suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

b. The Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity) that rely upon the compromised information; and

c. The disclosure made to such agencies, entities, and individuals is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in file folders, binders, computer files (eLaw) and computer disks. Electronic records, including computer files, are stored on the Commission's network and on various other electronic media as needed, such as encrypted hard drives. A summary index of material is also stored on the computer network.

RETRIEVABILITY:

By case title or in some instances by docket number.

SAFEGUARDS:

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, strong passwords frequently changed, use of encryption for certain data types and transfers, and regular review of security procedures and best practices to enhance security. Physical measures include restrictions on building access to authorized individuals and maintenance of records in lockable offices and filing cabinets.

RETENTION AND DISPOSAL:

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 offered to the National Archives and Records Administration for permanent retention after 20 years.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 and Regional Counsels in the regional offices: in Chicago at 525 West Monroe Street, Suite 1100 Chicago, IL 60661; in Kansas City at Two Emanuel Cleaver II Blvd., Suite 300, Kansas City, MO 64112; and in New York at 140 Broadway, 19th Floor, New York, NY 10005.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the Office of General Counsel, Paralegal Specialist, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone (202) 418-5011.

RECORD SOURCE CATEGORIES:

The parties, their attorneys, the Commission's Office of Proceedings, the relevant court, and miscellaneous sources.