CFTC-44

SYSTEM NAME:

Personnel Clearance System (PCS).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system is located in the Commission's principal office, at Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who require regular, ongoing access to CFTC facilities, information technology systems, or information classified in the interest of national security, including candidates for Commission employment or contracts, Commission employees, contractors of the Commission, students, interns, volunteers, individuals authorized to perform or use services provided in Commission facilities, and individuals formerly in any of these positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include any or all of the following: First name, last name, social security number, date of birth, state of birth, country of birth, non CFTC phone number, non CFTC email address, CFTC duty location, CFTC hiring division, hiring manager, job title, job series, job grade, journeymen job grade, appointment type, prior CFTC employment, prior employment year, prior employment division, business manager, proposed start date, level of clearance needed, clearance valid date, clearance related investigation status, and clearance related investigation notes; copies of and information derived from passports, birth certificates, driver's licenses, OF 306 forms, US “I-9 Forms” and resumes; information provided by the Office of Personnel Management (OPM) for clearance determination purposes; and in addition for contractors only, estimated contract end date, option year information, hiring manager and/or Contract Officer Technical Reviewer (COTR), contract number, company name, company point of contact, and company address.

Note:

This system of records does not include the Office of Personnel Management (OPM) background investigation report. An identical version of the investigation report is in the possession of the Commission, but is considered to be part of the OPM Central-9, Personnel Investigations Records. For information on how to request access to the OPM Central-9, Personnel Investigations Records, please see the Note in the Records Access Procedures section of this notice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Applicants and appointees to Federal service are subject to a background investigation under 5 CFR parts 731, 732, and 736, Executive Order 10450, "Security Requirements for Government Employment" and the agency memorandum exercising authority to conduct investigations of non-competitive service applicants and appointees under these authorities. *See also*Executive Order 13292, "Classified National Security Information," and Executive Order 12968, "Access to Classified Information." HSPD-12 clarified that Federal contractors are also subject to background investigation under these authorities. The Office of Personnel Management (OPM) is authorized to collect this information under 5 U.S.C. 3301, 3302, and 9101. 5 U.S.C. 1104 allows OPM to delegate the personnel management function to other Federal agencies.

Solicitation of the Social Security Number is also authorized by Executive Order 9397, which asks Federal agencies to use this number to help identify individuals in agency records.

PURPOSE(S):

The records in this system are used to verify identity and to facilitate background investigations by OPM and adjudications by the CFTC Security and Emergency Management Officer.

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 as stated below:

a. Except as noted on Forms SF 85, 85-P, and 86, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate public authority, whether Federal, foreign, State, local, or tribal, or otherwise, responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.

b. Employment, Clearances, Contract, or Other Benefits Decision by an Organization other than the Commission—disclosure may be made to a Federal State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, or the letting of a contract. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

c. National Security and Intelligence Matters—these records may be disclosed to Federal, State, local agencies, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or

classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

Additionally, 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.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESS CONTROLS, SAFEGUARDS, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The data will be collected and maintained electronically and in paper files. Paper records are stored in file folders, binders, computer files and computer disks. Electronic records, including computer files and electronically maintained data, are stored on the Commission's network and other electronic media as needed, such as encrypted hard drives.

RETRIEVABILITY:

Files are retrieved by name of the individual.

ACCESS CONTROLS, SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through various administrative, technical and physical security measures. Technical security measures within CFTC include restrictions on computer access to authorized individuals, required use of 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. Physical measures include restrictions on building access to authorized individuals only and maintaining records in lockable offices and filing cabinets. These records are kept in electronic form and in file folders in locked metal file cabinets in locked rooms at the headquarters office in the Security and Emergency Management Office.

RETENTION AND DISPOSAL:

The records will be maintained and disposed of in accordance with General Records Schedule 18, Item 22a and Item 22b. The schedules are available at *www.cftc.gov*. The data will be deleted by the Personnel Security staff 90 days after the separation of the individual from CFTC.

SYSTEM MANAGER(S) AND ADDRESS:

Security and Emergency Management Office within Logistics and Operations in the Commission's Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him/her by sending a request in writing, signed, to the Office of General Counsel, Paralegal Specialist, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Telephone (202) 418-5011.

When requesting notification of, or access to, records covered by this Notice, an individual should provide his/her full name, date of birth, agency name, and work location. An individual requesting notification of records in person must provide identity documents, such as a government-issue photo ID, sufficient to satisfy the custodian of the records that the requester is entitled to access. Individuals requesting notification via mail or telephone must furnish, at a minimum, name, date of birth, social security number, and home address in order to establish identity.

Note:

For information on how to request access to the OPM Personnel Investigations Records which are part of the OPM Central-9 system of records, please see the Note in the Records Access Procedures section of this notice.

RECORDS ACCESS PROCEDURES:

Individuals wishing to request access to CFTC records about them should contact the system manager indicated above. Individuals must furnish their full name (first, middle, and last name) and birth date for their record to be located and identified. An individual requesting access must also follow CFTC Privacy Act requirements regarding verification of identity and amendment of records. Correspondence between the requester and Human Resources staff on the subject of any background investigation and security adjudication may also be made available.

Note:

The CFTC may not provide an individual with access to his/her OPM Personnel Investigations Records or to copies of OPM documentation of any background investigation conducted by OPM or contractors dealing with those investigations. These records, which are sent to the CFTC Security and Emergency Management Office to allow adjudication of the request for security clearance, are owned by OPM and reside within the OPM Central-9 system of records. OPM is solely responsible for controlling access to, or amendment of, those records. Those seeking access to, or amendment, of those records owned by OPM should submit a request in writing to the Federal Investigations Processing Center, as stated in OPM Central-9. The signed request should be made under the Privacy Act of 1974 and include the requester's full name, home address, Social Security Number, date and place of birth, and other information requested by OPM.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their CFTC records should contact the system manager indicated above. Individuals must furnish their full name (first, middle, and last name) and birth date for the record to be located and identified. An individual requesting amendment must also follow the CFTC Privacy Act requirements regarding verification of identity and amendment of records.

Note:

Individuals who wish to request amendment of their OPM Personnel Investigations Records should follow the requirements of the OPM Central-9 system of records. For information on how to submit such a request, please see the Note in the Records Access Procedures section of this notice.

RECORD SOURCE CATEGORIES:

The individual and OPM will provide the information for this system of records.

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

None.