CFTC-32

SYSTEM NAME AND NUMBER:

Office of the Inspector General Investigative Files; CFTC-32.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Inspector General, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. The system will be hosted on a cloud and data center computing infrastructure. Duplicate versions of some or all system information may be at satellite locations where the CFTC has granted direct access to support CFTC operations, system backup, emergency preparedness, and/or continuity of operations.

SYSTEM MANAGER(S):

Inspector General, Office of the Inspector General, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, *OIG@cftc.gov*.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Commodity Exchange Act, 7 U.S.C. 1 *et seq.,* and regulations, rules or orders issued thereunder; Public Law 95-452, as amended, 5 U.S.C. app. 3.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to enable the Office of the Inspector General to effectively and efficiently intake allegations and conduct investigations relating to the programs and operations of the CFTC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are part of an allegation or investigation of fraud and abuse concerning Commission programs or operations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system includes all allegations, all correspondence relevant to the investigation; all internal staff memoranda, copies of all subpoenas issued during the investigation, affidavits, statement from witnesses, transcripts of testimony taken in the investigation and accompanying exhibits; documents and records or copies obtained during the investigation; incoming allegations and allegation development, opening reports, progress reports and closing reports; records documenting allegation and investigation file status.

RECORDS SOURCE CATEGORIES:

Information in these records is supplied by: Individuals including, where practicable, those to whom the information relates; witnesses, corporations and other entities; records of individuals and of the Commission; records of other entities; Federal, foreign, State or local bodies and law enforcement agencies; documents, correspondence relating to litigation, and transcripts of testimony; miscellaneous other sources including other nongovernmental sources and open source intelligence, including web-based communities, user-generated content, social-networking sites, wikis, blogs and news sources maintained on the Surface, Deep, and Dark web. The Surface Web is what users access in their regular day-to-day activity. It is available to the general public using standard search engines and can be accessed using standard web browsers that do not require any special configuration. The Deep Web is the portion of the web that is not indexed or searchable by ordinary search engines. The Dark Web is a less accessible subset of the Deep Web that relies on connections made between trusted peers and requires specialized software, tools, or equipment to access.

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

These records and information in these records may be disclosed:

1. The information may be given or shown to any person or entity during the course of an Office of the Inspector General (OIG) audit or audit activity (audit) if there is reason to believe that disclosure to the person or entity will further the audit.

2. To the Department of Justice or other federal entity, the Merit Systems Protection Board, the Office of Special Counsel, or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear, or in the course of civil discovery, litigation, or settlement negotiations, in actions authorized under the Commodity Exchange Act and otherwise authorized, 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 personal capacity where the Department of Justice or the agency has agreed to represent the employee; or

d. The United States, when the litigation is likely to affect the CFTC 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 to be relevant and necessary to the litigation.

3. To a federal, state, local, tribal, foreign, or international agency in response to its request for information concerning 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 other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. To a federal, state, local, tribal, foreign, or international agency, if necessary to obtain information relevant to the CFTC's decision concerning the hiring or retention of an employee; the issuance of a security clearance; the letting of a contract; or the issuance of a license, or other benefit.

5. In any case in which records in the system, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, foreign, State or local, charged with enforcing or implementing the statute, regulation, rule or order. This includes a state or federal bar association, state accountancy board, or other federal, state, local, or foreign licensing or oversight authority; or professional association or self-regulatory authority to the extent that it performs similar functions (including the Public Company Accounting Oversight Board) for investigations or possible disciplinary action, including suspension and debarment.

6. To contractors, performing or working on a contract for the Federal government when necessary to accomplish an agency function.

7. To the Office of Government Ethics to comply with agency reporting requirements under the law, including 5 CFR part 2638, subpart F.

8. To a grand jury agent pursuant either to a Federal or State grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, provided that the grand jury channels its request through the cognizant U.S. Attorney, that the U.S. Attorney has been delegated the authority to make such requests by the Attorney General, and that the U.S. Attorney actually signs the letter specifying both the information sought and the law enforcement purpose served. In the case of a State grand jury subpoena, the State equivalent of the U.S. Attorney and Attorney General shall be substituted.

9. To a Federal agency in response to a subpoena issued by the Federal agency having the power to subpoena records of other Federal agencies, provided the subpoena is channeled through the head of the issuing agency, if the OIG determines that: (a) The head of the issuing agency signed the subpoena; (b) the subpoena specifies the information sought and the law enforcement purpose served; (c) the records are both relevant and necessary to the proceeding; and (d) such release is compatible with the purpose for which the records were collected.

10. To the Department of Justice for the purpose of obtaining its advice on an OIG investigation, or other related inquiry, including Freedom of Information or Privacy Act matters relating to information in this record system.

11. To the extent authorized or required by law, information contained in this system of records may be disclosed to complainants, witnesses, victims, and/or individuals with relevant information (including experts), to the extent that it will not interfere with the investigation.

12. To any official charged with the responsibility to conduct investigations, qualitative assessment reviews, or peer reviews of investigative operations within the Office of the Inspector General. This

disclosure category includes members of the Council of the Inspectors General on Integrity and Efficiency or any successor entity and officials, designees, and administrative staff within their chain of command, as well as authorized officials of the Department of Justice and the Federal Bureau of Investigation.

13. To the news media and general public where there exists a legitimate public interest, *e.g.,* to assist in the location of fugitives, to provide notification of arrests, where necessary for protection from imminent threat of life or property, or in accordance with guidelines set out by the Department of Justice.

14. To the Department of Justice as required by law pertaining to government-wide, uniform crime reporting.

15. To appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that there has been a breach of the system of records, (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

16. To another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to Individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

17. Information may be disclosed to the National Archives and Records Administration to the extent necessary to fulfill its responsibilities under the law relating to these records.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in this system electronically or on paper in secure facilities.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Investigative files are retrieved by the subject matter of the investigation, individual investigated, or by case file number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The Office of the Inspector General temporary Investigative Files and the index to the files are destroyed 10 years after the case is closed. Investigations that involve, as subjects, the Chairman, Commissioners, Division Directors, or Office Heads; or result in substantive changes in agency policy; or draw significant public interest as reflected in widespread news media attention,

Congressional interest, and/or market participant inquiries are considered permanent records and forwarded to the National Archives 15 years after the case is closed.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Administrative safeguards include restricting access to the OIG work area, and restricting relevant investigative tasks to only those competent or qualified to perform the work. In addition, all users take annual security and privacy, and records management training. Technical security measures within CFTC include restrictions on computer access to authorized individuals who have a legitimate need to know the information; required use of strong passwords; multi-factor authentication for access to some CFTC network components; use of encryption for certain data types and transfers; firewalls and intrusion detection applications; and regular review of security procedures and best practices to enhance security. Physical safeguards include restrictions on building access to authorized individuals, 24-hour security guard service, and maintenance of records in lockable offices and filing cabinets.

RECORD ACCESS PROCEDURES:

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 should address written inquiries to the Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act access request.

CONTESTING RECORD PROCEDURES:

Individuals contesting the content of records about themselves contained in this system of records should address written inquiries to the Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.8 for full details on what to include in a Privacy Act amendment request.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should address written inquiries to the Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act notification request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Under 5 U.S.C. 552a(j)(2), this system of records is exempted from 5 U.S.C. 522a except subsections (b); (c)(1), and (2); (e)(4)(A) through (F); (e)(6), (7), (9), (10), and (11); and (i) to the extent the system of records pertains to the enforcement of criminal laws; and under 5 U.S.C. 552a(k)(2) is exempted from 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) to the extent the system of records consists of investigatory material compiled for law enforcement purposes, other than material within the scope of the exemption at 5 U.S.C. 552a(j)(2); provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be

entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence. Moreover, these exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) or (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, *e.g.,* public source materials, the applicable exemption may be waived, either partially or totally, by the Office of the Inspector General (OIG). These exemptions are contained at 17 CFR 146.13.

HISTORY:

76 FR 5973.