Privacy Impact Assessment
for
FOIAXpress Cloud

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OVERVIEW

FOIAXpress Cloud is a commercial-off-the-shelf web-based Freedom of Information Act (FOIA) and Privacy Act (PA) request tracking, management, and reporting software application used by the Commodity Futures Trading Commission (CFTC or Commission) FOIA Team to manage the lifecycle of FOIA and PA requests and appeals. The FOIA provides that any person has a right to obtain access to federal agency records subject to FOIA, except to the extent that any portions of such records are protected from public disclosure by one of nine FOIA exemptions. In addition, the PA permits individuals to seek access to agency records pertaining to themselves maintained by the CFTC unless there is an applicable PA exemption that prevents such access.

The CFTC receives FOIA and PA requests through various channels:

- Individuals may submit a FOIA or PA request using the CFTC FOIA Request Form or the CFTC Privacy Act Request Form, both available at cftc.gov. The requests submitted via these forms are stored in SharePoint (outside of FOIAXpress Cloud) where an email is generated that includes the request as a read-only portable format document (PDF). That email is then sent to the FOIA Team at FOIAsubmissions@cftc.gov, and the FOIA Team manually inputs the data from the PDF form into FOIAXpress Cloud.

- Individuals may also submit FOIA and PA requests to the CFTC by sending an email to FOIASubmissions@cftc.gov or by physically mailing a written request to the FOIA Team. These requests are then scanned into FOIAXpress Cloud and the information within the requests is manually input into the system. Instructions for physically mailing a FOIA or PA request are located at CFTC.gov.

- The Commission may also receive FOIA and PA requests from FOIA.gov, a central Department of Justice website where individuals can submit requests to any federal agency. To comply with an Office of Management and Budget (OMB) directive requiring that agency FOIA tracking systems achieve interoperability with FOIA.gov, the CFTC has established an Application Programming Interface (API) between FOIA.gov and the Public Access Link (PAL) feature available with FOIAXpress Cloud. As a result, a requester can submit a request at FOIA.gov, using a FOIA.gov CFTC-related form, and the request and any relevant documents are then passed to the CFTC through the PAL. This results in a request being automatically populated in FOIAXpress Cloud.

Once a request is received, the FOIA Team sends an internal email to the relevant CFTC divisions and offices requesting that they provide responsive records. Divisions and offices then reply to the request via return email with the applicable

records attached. The FOIA Team manually uploads the responsive records to FOIAXpress Cloud and reviews them, applying appropriate redactions to information that may be exempt from release. Occasionally the review is completed in Relativity (a separate CFTC system) when, for example, the file format of responsive documents is not compatible with FOIAXpress Cloud (e.g., pst files for email records). Once records are reviewed for responsiveness and appropriate redactions are applied, the FOIA Team sends the requested records and a response letter (which provides information about the search conducted for the records and about the records themselves) to the requester.

Only the FOIA Team and others in the Office of the General Counsel who are responsible for handling FOIA appeals have direct access to FOIAXpress Cloud to review requests and responsive records. Others within the Commission who have a need to know the content of a request and to provide responsive documents receive communication from the FOIA Team outside of the system.

1. AUTHORITIES AND OTHER REQUIREMENTS

1.1 What legal authority(ies) permit or require the CFTC to collect, use, maintain, or disseminate the information in the system, project, or program?

The Freedom of Information Act (FOIA), 5 U.S.C. § 552, implemented by 17 C.F.R. § 145 .5 -145.9, authorizes the collection of information, records, and related correspondence about individuals who have submitted requests to the CFTC for records or who have filed administrative appeals.

The Privacy Act, 5 U.S.C. § 552a, implemented by 17 C.F.R. Part 146, authorizes the collection of information, records, and related correspondence about individuals who have submitted requests under the Privacy Act for records about themselves, including requests for access to these records and requests for review of initial denials of such access requests.

1.2 Is there a Privacy Act System of Records Notice(s) (SORN(s)) that applies to the information in the system, project, or program? If yes, please identify it. If no, please explain why not.

The CFTC-39, Freedom of Information Act Requests, and CFTC-40, Privacy Act Requests, SORNs apply to the information in FOIAXpress Cloud.

1.3 Please identify the applicable accreditation boundary evaluated during the Authority to Operate (ATO) process. If the system is hosted by a Cloud Service Provider (CSP), please identify the CSP and state whether the system has Federal Risk and Authorization Management Program (FedRAMP) authorization.

The applicable accreditation boundary is FOIAXpress Cloud, which was issued an ATO [in January 2025] and placed into continuous authorization, replacing a prior on premises version of FOIAXpress. FOIAXpress Cloud is a Software as a Service (SaaS) environment hosted by OPEXUS, a FedRAMP certified CSP.

1.4 Is there a records retention schedule(s) approved by the National Archives and Records Administration (NARA) that governs the retention of the records maintained in the system, project, or program? If yes, please identify the schedule. If not, please explain.

Yes. The records in FOIAXpress Cloud are subject to General Records Schedule 4.2: Information Access and Protection Records, items 001, 020, 040, 050, 060, and 061.

1.5 Please list all forms or other information collection instruments that are used to collect the information in the system. If the information collected is subject to the Paperwork Reduction Act, provide the name of the form or information collection and the applicable OMB control number.

Form Name and Form Number	**OMB Control No.** *(If applicable)*
CFTC FOIA Request Form (Electronic)	N/A
CFTC FOIA Search Response Form (Electronic)	N/A
CFTC Privacy Act Request Form (Electronic)	N/A
FOIA.gov (Electronic)	N/A

2. INFORMATION

2.1 Identify the information that the system, project, or program collects, maintains, uses, or disseminates.

FOIAXPress Cloud collects, maintains, and uses the following information about FOIA and Privacy Act requesters: name, address, country, city, zip code, email address, phone number, firm name, and fax number, a description of the records the requester is seeking, information concerning the requesters willingness to pay fees or need for expedited treatment of the request, and a system-generated tracking number. For requesters seeking their Privacy Act covered records, the system may also contain signatures, information regarding the requesters' status as a registrant or with a registered firm, and documentation confirming the identity of the requester.

In addition the following records that may contain information about the requesters and others are uploaded into the system: the original FOIA or PA request; correspondence with the requester; emails between the FOIA Team employees in

other divisions, offices, or agencies regarding the search for and review of records responsive to the request; all records responsive to the request; any administrative records documenting CFTC's processing of the request; and documents confirming the requesters identity and any applicable consent to the release of information for Privacy Act requests.

In addition to information about the requesters and other individuals whose information may be contained in responsive records, FOIAXpress Cloud also maintains information about the OIA Team and other CFTC personnel who assist with searching for and providing records include, to include their names, roles, and business contact information, as well as Active Directory/Entra ID and device information collected and used when CFTC staff access FOIAXpress Cloud.

2.2 Is the information collected directly from the individual and, if not, what are the sources of information collected? How is the information obtained?

Generally, individuals provide information to the CFTC about themselves and their requests via forms, email, or mail, which the FOIA Team then manually enters into FOIAXpress Cloud; except where requesters submit requests via FOIA.gov, in which case the information is pushed to FOIAXpress Cloud via an API connection. Information about CFTC staff who have direct access to FOIAXpress Cloud is collected from Active Directory/Entra ID and from their devices and connections. Information about other individuals who may be referenced in the various responsive documents is not collected directly by FOIAXpress Cloud from those individuals, but rather from the custodian of those records.

2.3 What steps are taken to minimize the collection of information in the system, project, or program?

Only the information necessary to identify the FOIA or PA requester, identify responsive records, and correspond with the requester is collected. The Commission provides specific instructions to requesters on its website and on the relevant forms regarding what information to submit. Requesters may submit attachments or additional information about themselves in a free text field that is not strictly necessary to process the request; in those instances, the information is retained as part of the administrative record.

2.4 Discuss how the accuracy, integrity, and/or quality of the information identified above are determined.

During the processing of a FOIA or PA request, the FOIA Team communicates with the requester when there is a need for clarification, correction, or additional information. For example, if an incomplete address is provided and the requester indicated the desire to receive paper copies of responsive records via regular mail, the FOIA Team will reach out to obtain the correct and complete address. If a

request were ingested directly into the Public Access Link (PAL) system, either through FOIA.gov submission or transfer from another agency, the FOIA Team could reach out to the requester to seek clarification of information needed to respond to the request.

In addition, when the FOIA Team manually uploads requests to FOIAXpress Cloud, the team members cut and paste the information received from the requester, who has an interest in their information being accurate in order to receive their requested records.

2.5 Privacy Impact Analysis: Related to the Collection and Characterization of the Information

There is a risk that more information will be collected than is necessary to meet the business needs of processing FOIA and PA requests. This risk is mitigated via the instructions provided to requesters clearly indicating what information they should provide for their requests to be processes, by limiting the fields and the ability to submit attachments on request forms, and by maintaining a character limit on free text fields to discourage providing extraneous information. In addition, the FOIA Team can exclude any extraneous information from the system during their manual entry and can remove unnecessary information from the request submitted via the FOIA.gov PAL interface.

There is also a risk that the information in the system may not be accurate and thus impede an appropriate response the requester, either because the information provided was inaccurate or because it was entered incorrectly in the manual entry process. To mitigate this risk, the FOIA Team generally confirms contact information with requesters during processing and prior to providing a response. In particular with Privacy Act requests, the FOIA Team verifies the identity of the requester prior to providing any records.

3. USE OF THE INFORMATION

3.1 Describe how the information is used internally at the CFTC to support a business purpose.

The information collected and maintained by FOIAXpress Cloud is used to process FOIA and PA requests, including to communicate with the requester and to locate responsive documents. The information is also used to evaluate whether the requests are properly submitted, to locate and retrieve the relevant records, and to ensure that any records disclosed under the PA are provided to either the subject individual or an authorized third party.

Information about CFTC staff is used to ensure that only those with a need-to-know are granted role-based access to the system and that the appropriate points of contact are available to identify and process responsive records.

3.2 Identify all programs or offices, and an approximate number of individuals, within the CFTC that have assigned roles and responsibilities with respect to the system, project, or program or with whom information is shared. Explain how each uses the information.

Only the FOIA Team, which includes approximately three staff members in the Office of the General Counsel (OGC), and two OGC attorneys responsible for processing appeals or providing legal counsel related to requests and appeals, have access to FOIAXpress Cloud. In addition, one Information Technology branch staff member who serves as a system administrator also has system access to address technical issues.

Staff in all other CFTC offices and divisions do not have direct access to FOIAXpress Cloud but may be provided with information from the system, such as incoming requests and information about the requester, in order to identify and locate responsive documents. The FOIA Team may also consult with CFTC staff outside of OGC regarding redactions made to responsive documents.

Other staff with responsibilities related to network forensics may also have access to information about the request in order to assist with locating and reviewing responsive documents. For example, the forensics Team may retrieve responsive emails from the network as pst files, which FOIAXpress Cloud cannot accommodate. These records are loaded instead into Relativity, where they are later exported to FOIAXpress Cloud in a compatible file format.

3.3 Privacy Impact Analysis: Related to the Internal Access and Use

There is a risk that information in the system may be accessed and used by unauthorized individuals or may be used by an authorized individual for other than an authorized purpose. These risks are mitigated through the use of role-based access controls, limiting access to the system to only those with a "need-to-know." Only designated CFTC OGC staff are able to access the shared MS Outlook email inbox to which web-form FOIA Request submissions are routed. In addition, certain CFTC Information Security and Technology staff are able to access FOIAXpress Cloud and shared inboxes as super users to enable them to address technical issues as they arise. All activity in the system is monitored and audit logs generated.

4. INFORMATION SHARING

4.1 Is the information shared outside of the CFTC as part of usual agency operations? If so, identify the organizations or individuals with whom the information is shared, how and *why* it is shared, and how it is to be used.

By its nature, the FOIA and PA request process contemplates the release of records from FOIAXPress Cloud outside of the CFTC to the requester. Moreover, the identity of FOIA requesters and their requests are generally public information, subject to the requirements of the FOIA. In addition, where certain records responsive to FOIA requests are frequently requested or otherwise deemed to be of particular public import, the CFTC publishes those records, but not information about prior requesters, to the CFTC Frequent Request Information Page at https://www.cftc.gov/FOI/foia_freqrequestinfo.html.

Information maintained in the system may also be shared externally with other federal executive agencies when referrals or consultations are required due to responsive records originating outside of the CFTC; with certain persons who submitted information to the CFTC that is responsive to a FOIA request if they need to be consulted before the CFTC releases the information; and with contractors who support the maintenance and operation of the system. Information may also be shared with the Department of Justice when it represents the CFTC in connection with FOIA or PA litigation. Aggregate data about the FOIA requests CFTC receives and processes are reported to the Department of Justice annually.

Response letters and redacted records are sent to the requester directly from FOIAXpress Cloud; consultations with other agencies regarding records originating with them and communication with external parties related to confidential information they have previously submitted to the Commission are sent via encrypted email or via a secure data file transfer.

4.2 How is the information sharing described in 4.1 compatible with the purpose for which it was originally collected described in 3.1?

The external sharing of FOIA request records to other than the requester as described above is done pursuant to a routine use and consistent with the stated purpose in CFTC-39, Freedom of Information Act Requests, which is "to enable the CFTC to carry out its responsibilities under the FOIA. These responsibilities include enabling CFTC staff to receive, track, and respond to FOIA requests. . . . "

The external sharing of PA request records described above is done pursuant to a routine use and consistent with the stated purpose in CFTC-40, Privacy Act Requests, which is "to enable the CFTC to carry out its responsibilities under the Privacy Act. . . ."

4.3 Is the information sharing documented in a Memorandum of Understanding, other information sharing agreement, or a contract?

There are no Memoranda of Understanding or other information sharing agreements concerning the records in FOIAXpress Cloud. There is a contract in effect with OPEXUS for licenses to use the FOIAXpress software as a service and for related maintenance, support, training, design, and development.

4.4 Are there limitations on re-dissemination of the information by the third party in place, either in the documents identified in 4.3 or otherwise?

The contract with OPEXUS limits the contractor's access to and use of information in the system to only that which is necessary to meet the requirements of the contract. More generally when records responsive to a FOIA request are released to the requester, by nature of the FOIA process there are no limitations with respect to whom the requester can distribute those responsive records. Likewise, an individual who requests records about themselves pursuant to a PA request has no restrictions regarding to whom they can disclose those records.

4.5 Describe how the system, project, or program accounts for and maintains a record of disclosures outside of the CFTC.

Records about a FOIA requester or an individual who makes a PA request that are disclosed external to the CFTC (other than in response to a FOIA or PA request), are subject to the accounting of disclosures provision of the Privacy Act, 5 U.S.C. 552a(c). (Such disclosures are distinct from the records that are disclosed to the individual requester in response to their request, which are not subject to 5 U.S.C. 552a(c)). FOIAXpress Cloud does not currently have the ability to create such an accounting. Therefore, disclosures of records from the CFTC-39 and CFTC-40 systems of records, other than disclosures made pursuant to FOIA or internal to the CFTC, will be documented and maintained outside of FOIAXpress Cloud by the FOIA Team. The FOIA Team will transcribe on a dedicated spreadsheet the date, nature, and purpose for sharing the record and the name and address of the external person, agency, or other entity to whom the record is disclosed.

4.6 Privacy Impact Analysis: Related to Information Sharing

There is some risk that records in the system may be disclosed outside of the CFTC for a purpose that is not consistent with the purpose for which it was collected. This risk is mitigated by adhering to established FOIA and PA processes that are intended to ensure that responses are directed to the correct requester, including confirming identities and contact information of FOIA and PA requesters prior to providing response letters and responsive documents and carefully reviewing responses to ensure that only responsive records are provided. There is also a risk that, once shared appropriately, records in the system will be used or shared

further inconsistent with their original purpose. This risk is mitigated via contract terms that limit the use of the information that the contractor can access to that which is necessary to achieve the terms of the contract.

5. DATA RETENTION

5.1 Explain how long and for what reason the information is retained.

Records and information in the system should be retained in accordance with NARA General Records Schedule 4.2: Information Access and Protection Records, with various time periods for retention applying depending on the record type. These records are retained to process FOIA and PA requests and to address any subsequent appeals or litigation.

Prior to being entered into FOIAXpress Cloud, the incoming requests made via the FOIA and PA Request Forms are stored in SharePoint. There is currently no retention rule attached to the relevant SharePoint location and therefore the requests are being retained indefinitely.

5.2 Describe how the information is disposed of at the end of its retention period.

In the move from the self-hosted version of FOIAXpress to the FOIAXpress Cloud application, records that have reached or are beyond their retention period are being deleted and are not being migrated. Moving forward, records in the system will be reviewed annually to identify and delete those that have reached or are beyond their retention date. Records will be deleted in accordance with the CFTC Records Management Manual and using the Records Destruction Approval Form.

5.3 Privacy Impact Analysis: Related to Retention

There is risk that information in FOIAXpress Cloud may be kept longer than is necessary to meet the business need for which it was collected. This risk is mitigated by engaging in the annual review and deletion of records in accordance with the applicable retention schedule. This risk as it relates to records that are created prior to entry into the system and stored in SharePoint is currently not mitigated and will remain so until the appropriate schedule can be applied to those records.

6. NOTICE

6.1 How are individuals provided notice prior to the collection of their information? If they are not provided notice, please explain why.

Notice is provided via a Privacy Act statement on the FOIA and PA request forms. Notice is also provided via the applicable systems of records notices, via publication of this PIA, and via instructions for submitting FOIA and PA requests available at cftc.gov.

6.2 Do individuals have the opportunity to consent to the use of their information or decline to provide their information? Please explain.

As noted in the relevant Privacy Act statements, providing information to make a request is voluntary; but failure to provide certain information may result in the request not being processed or processed accurately. Once the information is provided, there is no option to consent or decline to the processing of the information in connection with the CFTC responding to the request.

6.3 Privacy Impact Analysis: Related to Notice

There is risk that individuals may not receive adequate notice concerning why their information is being collected and how it will be used. This risk is mitigated via Privacy Act statements on the relevant forms, publication of this PIA, through publication of the applicable SORNS, and via the provision of information on cftc.gov concerning FOIA and PA requests.

7. REDRESS

7.1 What procedures are in place that allow individuals to access their information?

Individuals who wish to request access to their FOIA or Privacy Act request records can do so by following the instructions in the applicable SORN. Individuals may also contact FOIAsubmissions@cftc.gov.

7.2 What procedures are in place to allow individuals to correct inaccurate or irrelevant information about themselves?

Individuals who wish to request amendment of their records can do so by following the instructions in the applicable SORN. Individuals may also contact FOIAsubmissions@cftc.gov.

7.3 How are individuals notified about the procedures for correcting their information?

Notice concerning the procedures for correcting information in the system is provided via the applicable SORNs. In addition, information is available at cftc.gov and in 17 CFR Part 146.

7.4 Privacy Impact Analysis: Related to Redress

There is a risk that individuals will not be able to access or amend their records. This risk is mitigated through the instructions provided in the applicable SORNs and relevant Commission regulations.

8. AUDITING AND ACCOUNTABILITY

8.1 How is the information in the system secured?

CFTF employs a variety of physical, technical, and administrative controls to secure FOIAXpress Cloud. Access is limited by user role and "need-to-know;" only the FOIA Team and limited Information Technology staff can access FOIAXpress Cloud. Data within FOIAXpress Cloud is generally only for internal CFTC use and is only accessible within the CFTC environment using CFTC-issued equipment.

8.2 Are audit logs generated reflecting access and use of the information in the system? If not, please explain. If so, please describe how often they are reviewed and for what purpose.

Yes, FOIAXpress Cloud maintains robust audit logs that contain limited PII, such as username, case name, and case/matter ID. These logs are created continuously within FOIAXpress Cloud and are reviewed as needed.

8.3. What procedures are in place to determine who has access to the system, and are they documented?

Requests for system access are submitted via ServiceNow and approved by supervisors and managers before being routed to the FOIA Team lead, who approves access to the system at the appropriate level. The requests and decisions are documented and maintained within ServiceNow.

8.4 Describe what privacy training is provided to users, either general or specific to this system or project.

All CFTC employees and contractors are required to take Cybersecurity and Privacy Awareness Training prior to being provided access the CFTC network, and annually thereafter. Any user who fails to meet the annual training requirement is subject to losing network access.

8.5 Privacy Impact Analysis: Related to Auditing and Accountability

There is a risk that the system is not audited and that the agency is not accountable concerning the collection, maintenance, and use of the information in the system. This risk is mitigated because audit logs are generated and are

available for review as needed. It is further mitigated because the FOIA Team lead has ultimate accountability for who has access to the system and at what level. Additionally, all users who access the system receive annual training and are required to sign rules of behavior.