Privacy Impact Assessment for CaseMap-TextMap

September 24, 2025

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OVERVIEW

CaseMap and TextMap ("CaseMap-TextMap" when referred to generally) are case organization and analysis tools that track and build case strategy in the course of investigations and litigation. The applications and their components are used primarily to organize critical information about facts, documents, and issues in cases in which CFTC is involved. The Division of Enforcement (DOE) and the Office of the General Counsel (OGC) are the main users of CaseMap-TextMap.

CFTC personnel use CaseMap to quickly create case reports and it can be used by multiple CFTC personnel working on the same matter simultaneously. CaseMap is designed to manage the requirements of capturing information about case facts, documents, and issues. It can be customized to handle the unique needs of CFTC cases. Users can link from CaseMap to relevant documents in Relativity, which allows them to narrow documents down to those that are most important while maintaining their association with the application. Using the interface between CaseMap and Relativity, users can highlight selected text in Relativity creating a Fact Text note in CaseMap with a link back to the actual document Relativity. Specific documents can be associated with parties involved in the investigation or litigation and can be categorized as needed.

TextMap stores copies of depositions and hearing transcripts with the attached exhibits to support investigative work, matter analysis, and work product preparation. Litigation Support Specialists download copies of the transcripts with exhibits from the Court Reporter's web site, receive them via email from DOE, or copy/download them from DOE's internal files and then upload them into TextMap. TextMap allows certified transcripts from court reporters in a Question and Answer format to be viewed electronically without altering their format. Within TextMap, the DOE users can take notes within TextMap through TextMap's "New Fact" function. New Facts may include PII from the transcripts. Role Based Access Controls (RBAC) limit access to CaseMap-TextMap to those who have a need to know the information, and then only to the subsets of information relevant to their business needs.

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 Commodity Exchange Act, 7 U.S.C. § 1 et seq., and the rules and regulations promulgated thereunder, establishes the CFTC and provides the authority for the CFTC's regulatory, enforcement, and market oversight activities as well as the authority for general operations of the CFTC, all of which may lead to the collection, maintenance, use, and dissemination of information processed in CaseMap-TextMap. In addition, the Administrative Procedure Act, 5 U.S.C. §§ 551-559, Federal Rules of Civil Procedure, and state and federal statutes and case law govern

the preservation, collection, and production of information in connection with regulatory activities, actual or anticipated litigation, and responses to subpoenas, all of which may lead to the collection, maintenance, use, and dissemination of information processed in CaseMap-TextMap.

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.

Yes. The CFTC-10, Investigatory Records, CFTC-16, Enforcement Case Files, and CFTC-17, Litigation Files – OGC SORNs may apply to certain records in this system.

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 Legal Technology Services - CaseMap, which was issued an ATO issued on May 22, 2023, and placed into continuous monitoring.

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 CaseMap-TextMap vary in type and are subject to different retention schedules. These include CFTC Mission Schedules 301, Legal Representation and Advice (DAA-0180-2018-0006-0003); 401, Customer and Official Inquiry Files (DAA-0180-2012-0003-0001); 402, Investigations Closed without Litigation (DAA-0180-2012-0003-0003); 403, Enforcement Case Files (DAA-0180-2012-0003-0006); 404, Closed Matter Summaries (DAA-0180-2021-0002-0001); 407, Non-records from Record Codes 401, 402, and 403 (CFTC Filing Instruction); and 431, Landmark Inquiries, audits, investigations, litigations and similar events (DAA-0180-2021-0001-0001).

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.

Not applicable.

2. INFORMATION

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

CaseMap-TextMap includes links to a variety of information in Relativity and deposition and hearing transcripts that were gathered in the course of investigating and litigating matters under the CFTC's jurisdiction, responding to subpoenas, processing the CFTC's regulatory activities, and maintaining as needed emails, guidance, and work product. In addition, it contains notes created by the system users.

More specifically the information in the system may contain information about, for example, individuals who are the subject of an investigation or who are involved in litigation or other enforcement action as a witness, defendant, complainant, or otherwise. This may include personal identifying numbers, such as Social Security number, taxpayer identification number, credit card or bank account information, driver's license number, and employee ID; contact information, such as phone number, email address, physical address, and employer; biographical information, such as name, date of birth, resume information; and for CFTC users, username and password and CFTC email address.

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?

CaseMap-TextMap does not collect information directly from the individuals whose information it contains. Information processed in CaseMap-TextMap comes from a variety of sources including court proceedings, deposition transcripts, and hearing transcripts. Links are created to original documents that contain PII located in the separate authorization boundary Relativity and transcripts are obtained from court reporters or DOE staff. Notes that may include information about individuals are input directly by the system users.

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

Information analyzed in CaseMap-TextMap is limited to what must be reviewed to support litigation and enforcement efforts. It is not always clear at the outset what information will be relevant to a particular matter and, therefore, given the investigative nature of the information processed in CaseMap-TextMap, steps are not taken generally to minimize the collection of data in the system.

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

CaseMap-TextMap includes links to a variety of information in Relativity that was gathered in the course of investigating and litigating matters under the CFTC's jurisdiction, responding to subpoenas, processing the CFTC's regulatory activities,

and maintaining as needed emails, guidance, and work product. The information collected in CaseMap-TextMap can include copies of depositions and hearing transcripts and attached exhibits. Determinations are not made regarding accuracy, integrity and/or quality of records ingested into Relativity initially, which are then transferred in whole or in part to CaseMap.

Transcripts loaded into TextMap are accompanied, where relevant, by errata sheets, on which a witness can correct any mistake in the transcript. No changes are made to the original transcript itself. Additionally, DOE users can take notes within CaseMap-TextMap through to make notes about the information they are reviewing and can note any issues with accuracy.

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

There is a risk that more information will be collected in the system than is necessary and/or that the information will not be accurate. The information collected in the system is intended for investigation and litigation purposes and, due to the nature of the investigative process, the need for and accuracy of the information may not be clear at the outset. Through review and processing, the system users evaluate the information collected for relevance and accuracy.

3. USE OF THE INFORMATION

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

The information in CaseMap-TextMap is used in investigations and litigation by DOE and OGC staff primarily to organize critical information about facts, documents, and issues in cases in which CFTC is involved.

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.

The CFTC restricts access to CaseMap-TextMap to those employees and contractors who have a need to know the information to perform their job duties. Approximately 220 DOE attorneys, Litigation Support Specialists (LSSs), and OGC attorneys use CaseMap-TextMap in investigations and litigation. In addition to the federal employees serving in those areas, DA-IT employees and contract employees provide both mission-specific and technical system support.

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

There is a risk that unauthorized users may access the system or that authorized users may access the information and use it for an unauthorized purpose. This risk

is mitigated through the use of Role Based Access Controls that limit access to only those who have a need to know the information in CaseMap-TextMap and only to the subset of information relevant to their business need. DOE attorneys and investigators and OGC attorneys only access matters and cases for which they have authorization. CaseMap-TextMap has functionality built to track and identify what has been accessed by an individual end user which can be reviewed as needed.

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.

CaseMap-TextMap users may share copies of depositions and hearing transcripts with attached exhibits with third parties, such as expert witnesses. Additionally, as a part of ongoing investigations and litigation, DOE may share CaseMap-TextMap information with third parties outside of the CFTC, who are a party to or otherwise involved in the matter, and with other Federal and State agencies as a part of cooperative enforcement initiatives.

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 sharing described above is done to achieve the purposes described in 3.1, and/ or consistent with the SORNs applicable to the records being disclosed. All disclosures of records that are covered by the Privacy Act are disclosed pursuant to an applicable routine use in the relevant SORNs. For example, blanket routine use 2 Permits sharing with 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; blanket routine use 13 permits sharing with personnel performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government; and blanket routine use 15 permits sharing with the Department of justice or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear, when CFTC is involved and the information is relevant and necessary to the litigation.

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

Contractor access to CaseMap-TextMap is subject to a contract with the CFTC. Information sharing with other agencies is permitted by 7 U.S.C. §§ 12 and 16 and documented in and governed by cooperative access agreements. Other sharing in the context of litigation is done pursuant to requirements and restrictions in law and regulation.

4.4 Are there limitations on re-dissemination of the information by the third party in place, either in the documents identified in 4.2 or otherwise?

The contract limits the use of the information accessed by contractor staff to only that which is necessary to meet the requirements of the contract. The cooperative access agreements entered into with other agencies govern the appropriate use of the information provided, and, when information is disclosed in the context of litigation, there may be a protective order restricting further use and dissemination of the information.

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

A record of disclosure is not maintained within the system. Rather, when Privacy Act covered information is disclosed from the system, a manual process is used to account for disclosures through cover letters to expert witnesses and access grants to Federal and State agencies.

4.6 Privacy Impact Analysis: Related to Information Sharing

There is a risk that information in the system will be disclosed outside of the CFTC for a purpose that is not consistent with the purpose for which it was collected and/or that once shared it will be further disseminated for an unintended purpose. This risk is mitigated by sharing information only in accordance with the applicable SORNs or, where the records shared are not covered by the Privacy Act, consistent with applicable laws and regulations; and by established language in contracts and information sharing agreements that describes appropriate use of the information.

5. DATA RETENTION

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

Information in CaseMap-TextMap is retained in accordance with applicable retention schedules identified in Section 1, which vary in accordance with the type of information. Records are archived, deleted, or destroyed in accordance with the archiving standard operating procedure. For example, investigations closed without litigation, enforcement case files, and non-records are transferred to off-site storage or destroyed 30 days after last related actions, appeal, or matter or case closure. Some records like access and disclosure request files are generally maintained for 3 years. Legal representation and advice records are retained for 5 10 years. Permanent docket case files are transferred to NARA after 30 years.

Records may be retained outside of the relevant retention schedule when the information is subject to a litigation hold, which suspends the retention period. When the litigation hold ends, the normal retention schedule is implemented.

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

Once records in CaseMap-TextMap have reached the end of their retention period and are approved for disposal, CFTC staff or contractors under the supervision of CFTC staff permanently dispose of the related information. In most circumstances for information moving through CaseMap-TextMap, when matters reach closure access is removed and the records are archived. Records are then retired to NARA facilities in accordance with prescribed schedules and any backups are destroyed. Records are deleted in accordance with the CFTC Records Management Manual and using the Records Destruction Approval Form. On a quarterly basis in accordance with a standard operating procedure, closed matters are identified for archiving and as set out in the retention schedule, historically significant records are transferred to NARA.

5.3 Privacy Impact Analysis: Related to Retention

There is risk that information in CaseMap-TextMap may be kept longer than is necessary to meet the business need for which it was collected. This risk is mitigated by transferring data to archive data shares for evaluation followed by deletion of source records in accordance with the applicable retention schedule. Further, quality control checks are done by team members following quarterly archiving. This risk is also mitigated by having in place and adhering to a standard operating procedure regarding record retention in CaseMap-TextMap.

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.

CaseMap-TextMap does not collect information directly from individuals and, therefore, does not provide notice directly to individuals. Rather, CaseMap-TextMap processes information in records received from other CFTC systems and input by CFTC staff. To the extent required, notice is provided to individuals at the point of the original collection of information. Notice is also provided to the public about what information is collected and for what purposes via publication of the SORNs identified in Section 1.2. Notice is also provided through this PIA.

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

Individuals do not interact directly with CaseMap-TextMap and do not have the opportunity to consent to the inclusion of their information in the system.

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. Where applicable, this risk is

mitigated via Privacy Act statements at the point of collection from the individual and is also mitigated via publication of the applicable SORNs and as well as through publication of this PIA. Given the nature of the records collected for investigations and litigation, it may not be feasible or required to provide notice to individuals about the collection and use of their information.

7. REDRESS

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

Certain records contained in CaseMap-TextMap are included in Privacy Act systems of records that have been exempted from the access and amendment provisions of the Privacy Act. Individuals may request access to non-exempted records by following the procedures outlined in the relevant SORNs and in the Commission's regulations at 17 C.F.R. Part 146.

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

Certain records contained in CaseMap-TextMap are included in Privacy Act systems of records that have been exempted from the access and amendment provisions of the Privacy Act. Individuals may request amendment to non-exempted records by following the procedures outlined in the relevant SORNs and the Commission's regulations at 17 CFR Part 146.

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

The procedures for submitting a request to correct Privacy Act covered information are outlined in the applicable SORN and in the Commission's regulations at 17 CFR Part 146.

7.4 Privacy Impact Analysis: Related to Redress

There is a risk that individuals will not be able to access information about themselves that is contained in the system nor be afforded an opportunity to correct that information. This risk is mitigated by providing individuals, where required and appropriate, with information about how to access and request amendment of their records 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 CaseMap-TextMap. Data within CaseMap-TextMap is only for internal CFTC use and

access to the system and to particular matters within the system is limited by user role and "need-to-know." Further, multiple layers of approval are required for CFTC personnel to be granted access, personnel are required to follow CFTC Rules of Behavior, and annual security and privacy awareness training are required.

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. CaseMap-TextMap's internal tracking system records the date and time when users log in and their basic account information. Logs are reviewed on an ad hoc basis.

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

Each CFTC practice area, Division, or Office has a Business Management Unit (BMU) who determines role-based access needs. CFTC staff members route access requests through supervisors, managers, and their BMU. Requests for access are evaluated by the BMUs for approval or rejection. For those whose access is approved, the Litigation Support Specialists grant access and configure the user's functionality.

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

All CFTC staff and contractors are required to complete Cybersecurity and Privacy Awareness Training prior to gaining access to the CFTC network and annually thereafter. Users who do not complete the annual training lose their access.

8.5 Privacy Impact Analysis: Related to Auditing and Accountability

There is a risk that the system is not audited and that the Commission 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 reviewed as needed to troubleshoot any user and system anomalies. It is further mitigated because the Litigation Support Specialists have 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.