Privacy Impact Assessment

System Name: NFA Applications Suite System

Date: November 6, 2018

1. Overview

The National Futures Association (NFA) is a not-for-profit membership corporation formed in 1976 and functions as a futures industry self-regulatory organization under Section 17 of the Commodity Exchange Act (CEA). The Commodities Futures Trading Commission (CFTC or Commission) has delegated to the NFA the authority to perform certain functions and act as custodian of certain CFTC records to support the CFTC's mission of protecting market participants and the public from fraud, manipulation, abusive practices and systemic risk related to futures and swaps derivatives and to foster transparent, open, competitive and financially sound markets.

The NFA Applications Suite System ("Applications Suite") is a collection of the NFA databases and applications specifically designed to allow NFA to fulfill the mission and business objectives set forth by the Commission through delegated authority. NFA performs several specific regulatory activities for the Commission by delegated authority:

- reviewing applications for individuals and firms to register to conduct business pursuant to the Commodity Exchange Act, 7 U.S.C. § 1, et seq. and approving or denying those applications, for individuals , based in part on results of background checks and proof of passing appropriate qualification examinations;
- handling notices of exemption or exclusion, or claims for exemption or exclusion from certain CFTC requirements;
- handling other notices and related communications from firms, individuals or foreign regulators related to CFTC substituted compliance procedures;
- screening to determine fitness to obtain or maintain CFTC registration;
- denying, revoking, suspending or conditioning registrations;
- maintaining systems for CFTC registrants ("Registrants") to file certain financial statements , disclosures and other required documentation, and reviewing and auditing such documentation;
- reviewing and analyzing Registrants' financial filings provided in the context of registration applications and;
- maintaining a public-facing web site with information about Registrants, including current registration status and any disciplinary action imposed.

The Applications Suite takes in a variety of information from individuals and firms applying for registration to conduct business pursuant to the Commodity Exchange Act (7 U.S.C. § 1 et seq.), individuals and firms seeking exemption from certain requirements, Registrants, and select market participants (e.g., exchanges) to allow NFA to accomplish the above activities. Though subject to change with future information technology upgrades, this PIA covers activities that are currently handled by the following NFA database and applications[1]:

- Background Affiliation Status Information Center (BASIC): a public-facing, web-based, searchable system that contains registration information, and futures-related regulatory and non-regulatory actions, including disciplinary actions and arbitration decisions, provided by NFA, the CFTC and the U.S. futures exchanges.
- Disclosure Document System (DDOC): enables Registrants to file disclosure documents.
- Fingerprint system: a system used by NFA internally that allows it to store and electronically process fingerprint cards for certain applicants for registration.
- Electronic Filing Cabinet (EFC): a system used internally by NFA containing non-fitness registration records of Registrants.
- EasyFile: enables Registrants to electronically file a variety of financial documents, including but not limited to: daily, quarterly and annual statements; foreign exchange currency balances; criminal and regulatory statutory disqualification forms; and other compliance documents.
- Financial Analysis & Audit Compliance Tracking System (FACTS): a database for financial data, audit and other compliance information about Registrants.
- Fitness Image: an internal system that stores images of non-public registration records.
- Audit Software: a system used by NFA to perform examinations of submissions by Provisionally Registered Swap Dealers and Major Swap Participants pursuant to Commission Regulation 3.1O(a)(1)(v)(A).
- Online Registration System (ORS): a web-based registration and processing system. Except for a limited number of forms, NFA no longer accepts hardcopy versions of registration, all of which must be electronically filed using ORS.
- WinJammer™ Online Filing System: allows certain Registrants to enter and transmit FOCUS reports, financial reports for futures commission merchants (form 1FR-FCM), Segregated Investment Detail Reports (SIDR), notice filings and other financial statements.
- Exemptions: a web-based filing framework used to file certain notices of exclusion or exemption from the CFTC's Part 4 requirements.

2.   Data Collected and Stored Within the System

2.1. What information will be collected, used, disseminated or maintained in the system?

NFA collects, uses, disseminates and maintains in the system a variety of information used for identification and regulatory purposes. This information includes:

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[1] NFA maintains its own business activities separate from its activities for the CFTC by delegated authority. This PIA only covers those NFA activities performed for the CFTC by delegated authority.

PII Categories	Is collected, processed, disseminated, stored and/or accessed by the system
Name	X
Date of Birth	X
Social Security Number (9 digits)*	X
Photographic Identifiers	X
Driver's License	X
Biometric Identifier (Fingerprint)**	X
Mother's Maiden Name	X
Mailing Address	X
Phone Numbers	X
Financial Account Information	X
Trader Information:	X
Options Account Information	X
Futures Account Information	X
Special Account Reporting Number	X
Certificates	X
Legal Documents	X
Web Uniform Resource Locator(s)	X
Email Address	X
Education Records	X
Military Status	X
Employment Status	X
Foreign Activities	X
NFAID Number	X
Record of Arrest and Prosecution Sheet (" RAP"	X
Futures related regulatory and non-regulatory actions taken by NFA, CFTC & US Futures Exchanges	X

*Requested on the Federal Bureau of Investigation (FBI) fingerprint card and NFA Forms 8-R and 8-T. Providing a Social Security number assists the NFA in identifying individuals and ensuring it assigns only one NFAID number per person, thereby expediting the processing of those forms. On forms 8-R and 8-T, a Social Security number also may be used pursuant to the Debt Collection Improvement Act of 1996 to facilitate collection and reporting on any debt owed to the U.S. Government, including civil monetary penalties. Also, the last four digits of the Social Security number are collected for sole proprietors who file notices of exemption through NFA's Exemptions system.

**The FBI provides fingerprint identification services for the positive identification of certain individuals with common names, and to facilitate fitness reviews of registrants on a spot and periodic basis.

2.2. What will be the sources of the information in the system?

Applicants for registration, Registrants, firms and individuals filing notices of exemption or exclusion or claims for an exemption or exclusion and select market participants (e.g., exchanges) are the primary sources of the collected information. Information also may be provided by foreign government authorities related to substituted compliance procedures. While conducting cross reference, background checks or fitness investigations, additional sources that provide information to NFA may include the FBI, Financial Industry Regulatory Authority (FINRA) Central Registration Depository (CRD®), court documents, Public Access to Court Electronic Records (Pacer), World- Check™, Interpol, and foreign regulators.

2.3. Why will the information be collected, used, disseminated or maintained?

The NFA uses this information to perform the duties delegated to it by the CFTC. As examples, NFA thoroughly screens all applicants for registration. Individual applicants must meet stringent fitness requirements, must provide fingerprint cards for FBI background checks and pass comprehensive proficiency testing requirements. NFA has the authority to deny, revoke, suspend or condition registration, with certain appeal rights to the CFTC. In addition, NFA collects certain notices and handles related communications related to exemptions or exclusions from CFTC requirements and CFTC substituted compliance procedures.

Information is collected, used, disseminated, and maintained in accordance with the CFTC and NFA rules and regulations. These rules and regulations dictate the type of information that is required in order for NFA to conduct its responsibilities for the CFTC by delegated authority.

2.4. How will the information be collected by the NFA?

NFA collects the information in electronic format through online portals as well as in the form of paper, fingerprint cards, faxes, and/or email.

2.5. Is the system using technologies in ways that the NFA has not previously employed (e.g., monitoring software)?

No. All software and technologies used are common to NFA's current infrastructure.

2.6. What specific legal authorities authorize the collection of the information?

In 1974 Congress passed the Commodity Futures Trading Commission Act, establishing the CFTC as a federal regulatory agency with jurisdiction over commodity futures trading. The same legislation authorized the creation of "registered futures associations," giving the futures industry the opportunity to create a nationwide, self-regulatory organization. NFA began operations in 1982. Since then, NFA has continued to accrue responsibilities under authority delegated to it by the CFTC including but not limited to processing registrations, reviewing submissions by swap dealers and major swap participants pursuant to Commission Regulation 3.10(a)(1)(v)(A), collecting, reviewing and analyzing notices and related communications concerning exemptions or exclusions from CFTC requirements and CFTC substituted compliance procedures, reviewing and analyzing financial statements filed by Registrants, reviewing and approving disclosure documents and accepting notices of disciplinary actions in accordance with Commission Regulation 9.11.

3. **Data and Records Retention**

3.1. For what period of time will data collected by this system be maintained and in what form will the data be retained?

CFTC and NFA are revising the records disposition schedules that apply to records covered by this PIA.

3.2. What are the plans for destruction and/or disposition of the information?

Regarding electronic records, NFA's systems link information about individuals between

different databases and applications, and also at times link individuals and firms when they have or had some form of relationship. Purging an entire record of an individual or firm when that record is no longer necessary for recordkeeping or other CFTC purposes can prevent retrieval of or otherwise impact connected records that are still necessary. NFA is currently working to address this complication, and will update its business processes and systems when possible to ensure compliance with record retention rules.

Regarding records maintained in paper form, when it is determined that records are to be destroyed, paper records will be shredded.

4. Access to and Sharing of the Data

4.1. Who will have access to the information in the system (internal and external parties), and with whom will the data be shared? If contractors, are the Federal Acquisition Regulations (FAR) clauses included in the contract (24.104 Contract clauses; 52.224-1 Privacy Act Notification; and 52.224-2 Privacy Act)?

Applicants for registration, Registrants, individuals and firms seeking exemption or exclusion from CFTC requirements, exchanges and the general public have access to certain types of information in the Applications Suite, as authorized by the CEA and CFTC regulations.

For other types of information, authorized NFA staff have access to information in the system on a "need-to-know" basis. Information is shared with the CFTC and other regulatory agencies, including foreign government authorities, as required or permitted by law. Contractors that may have access to this information are contractually required to maintain the confidentiality of non-public information either through FAR terms and conditions or other terms and conditions containing similar protections and restrictions on the use of information.

4.2. If the data will be shared outside the NFA's network, how will the data be transferred or shared?

Certain information in the Applications Suite is publicly releasable in accordance with the CEA and/or CFTC regulations. Information that is not publicly releasable and needs to be shared outside the NFA network is provided via secure channels in a manner designed to prevent the unnecessary and/or unauthorized disclosure of sensitive information. Such methods may include encryption of electronic information (e.g., secure file transfer protocol (SFTP)) or hand delivery of documentation.

4.3. If the data will be released to the public, consultants, researchers or other third parties, will it be aggregated or otherwise de-identified (i.e. anonymized)? If yes, please also explain the steps that the NFA will take to aggregate or de-identify the data.

For information that is not publicly releasable, some information will be provided in accordance with System of Records Notice (SORN) CFTC-12 "The NFA Applications Suite System". Otherwise, unless required by regulations, rules, laws, or other legally binding agreements, NFA will anonymize any non-public data to be released to the public by aggregating the data to de-identify specific individuals. NFA does not expect to release non-public information to consultants or researchers.

4.4. Do the recipients of the aggregated or de-identified information have another dataset, or is there a publicly available dataset that could be used to re-identify NFA information?

NFA is not aware of any of data set that could be used to re-identify the information. NFA will anonymize any non-public data to be released to the public by aggregating the data. NFA will use industry standard aggregation or de-identification strategies designed to prevent re-identification of such information through other available information.

4.5. Describe how the NFA will track disclosures of information that will be shared with outside entities. The Privacy Act requires that the NFA record the date, nature, and purpose of each disclosure of a record to any person or to another agency.

For requests for information in PII-form when such information is not publicly releasable, NFA would confirm its legal authority to release such information, track such disclosures to outside entities by documenting which person or party/organization made the request, the date and nature of the request, the decision made to disclose or not disclose the data and by whom, and any restrictions on further dissemination of the requested information. Requests for information can be handled by NFA General Counsel, Compliance, or Registration staff. Privacy Act and Freedom of Information Act (FOIA) requests are logged.

4.6.   Do other systems share the information or have access to the information in this system? If yes, explain who will be responsible for protecting the privacy rights of the individuals affected by the interface (e.g., System Administrators, System Developers, and System Managers)?

Yes. The Applications Suite shares certain information with the CFTC via an SFTP connection and a secure encrypted connection. NFA also shares with the FBI via Simple Mail Transfer Protocol (SMTP). NFA Information Systems owners and Information Technology staff are responsible for protecting the privacy rights of individuals affected by the interface.

5. Notice, Consent and Access for Individuals

5.1. What notice will be provided to individuals about the collection, use, sharing and other processing of their personal data?

Notice about the collection use and sharing is provided through various means including NFA's "Disclaimer and Privacy Policy", the certifications in the NFA firm/individual applications, including Privacy Act Notices, System Use Notification Messages ("Banners"), and associated CFTC published System of Records Notice (SORN) CFTC-12,"The NFA Applications Suite System". In addition, this PIA will be posted on both the CFTC and NFA websites.

5.2. What opportunities will exist for an individual to decline to provide information or to consent to particular uses of the information? If opportunities exist, how will this notice be given to the individual and how will an individual grant consent?

For applications that collect data from individuals, individuals are given an opportunity to consent to providing personal information. However, individuals are required by law to provide certain information in order to apply to register to participate in activities governed by the Commodity Exchange Act.

5.3. What procedures will exist to allow individuals to gain access to their information and request amendment/correction, and how will individuals be notified of these procedures?

Individuals may access much of the information maintained about them by NFA through the public interface into the BASIC application, i.e., the BASIC website. The NFA's "Disclaimer and Privacy Policy" directs an individual requesting access, amendment, or correction to their information to contact NFA by email at: information@nfa.futures.org.

Requests for information also can be handled by NFA General Counsel, Compliance, or Registration staff. For details , please see NFA Rule 701, Disclosure of Information From Registration Records Maintained by NFA, and Rule 4-1, Disclosure of Information from CFTC Records, Other than Registration Records, Maintained by NFA.

6. Maintenance of Controls

6.1. What controls will be in place to prevent the misuse of the information by those having authorized access and to prevent unauthorized access, use or disclosure of the information?

The information is protected from misuse and unauthorized access through various administrative, technical and physical security measures. Administrative measures include policies and procedures regarding appropriate treatment for personal information and annual required privacy and security training. Technical security measures 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. NFA's website also utilizes various security measures such as firewalls, encrypted data transmissions, and other security techniques to protect users' personal data. Also, the CFTC accesses NFA information and data through secure means, for example, email communications between NFA and the CFTC are generally encrypted, at present, through transport layer security (TLS) technology, and the CFTC staff members can directly access certain NFA applications through secure web portals.
Physical measures include restrictions on building access to authorized individuals and maintenance of records in lockable offices and filing cabinets.

6.2. While the information is retained in the system, what will the requirements be for determining if the information is still sufficiently accurate, relevant, timely, and complete to ensure fairness in making determinations?

Various administrative, technical and physical security measures are in place to help ensure that the information entered into the Applications Suite continuously reflects over time the original information entered. NFA conducts regular audits, reviews and spot checks its systems to validate the integrity of information. Also, individuals may access much of the information held by NFA through the BASIC website to confirm the accuracy, relevance, timeliness and completion of the information, and may contact NFA to request amendment.

6.3. Will this system provide the capability to identify, locate, and monitor individuals? If yes, explain.

No. The information provided does not allow the NFA to monitor an individual's movement or actions.

6.4. Does this system comply with FISMA requirements to help ensure that information is appropriately secured?

Yes. NFA follows the National Institute of Standards and Technology (NIST) Special Publication 800-53, "Recommended Security Controls for Federal Information Systems" to secure its website and systems as required by the Federal Information Security Management Act (FISMA) A security assessment of the Applications Suite is regularly conducted by NFA security staff and reviewed by the CFTC Office of Data and Technology (ODT) Security Team.

6.5. Describe the privacy training provided to users either generally or specifically relevant to the program or system.

All NFA personnel are subject to NFA company-wide procedures for safeguarding PII and receive annual privacy and security training.

7. Privacy Act

7.1. Will the data in the system be retrieved by a personal identifier in the normal course of business? If yes, explain. If not, can it be retrieved by a personal identifier?

Yes. The NFAID number, an individual or company name, or Social Security number is used in the Applications Suite as a means to identify individuals or companies to retrieve information about them.

7.2. Is the system covered by an existing Privacy Act System of Records Notice ("SORN")? Provide the name of the system and its SORN number, if applicable.

The Applications Suite is currently covered by SORN CFTC-12, "The NFA Applications Suite System."

8. Privacy Policy

8.1. Confirm that the collection, use and disclosure of the information in this system have been reviewed to ensure consistency with the NFA's Privacy Policy on http://www.nfa.futures.org/ .

Yes. NFA's "Disclaimer and Privacy Policy" reflects the collection, use, and disclosure of information.

9. Privacy Risks and Mitigation

9.1. What privacy risks are associated with the collection, use, dissemination and maintenance of the data? How have those risks been mitigated?

NFA has minimized the PII being collected to the minimum necessary to carry out its obligations delegated by the CFTC. The NFA maintains a comprehensive Information Security Plan with security controls designed to safeguard NFA's networks and systems.

NFA has adopted the protections identified in Section 6.1, above, and other protections to appropriately safeguard non-public information.

NFA implements a number of access controls to ensure information is accessed by only those with a need to know. Three general types of Applications Suite users have been identified:
- Industry Users - Complete and submit forms to the NFA via the Applications Suite.
- NFA Users - Access via NFA Intranet to receive and respond to user queries and process certain requests for registration with NFA.
- NFA Administrators - Access via NFA Intranet to configure and maintain workflows, user groups, and user roles.