



## Commodity Futures Trading Commission Privacy Impact Assessment

**System Name:** Comments Online

**Office:** The Secretariat

**Date:** November 2, 2018

### 1. Overview

To facilitate the submission of comments and the timely publication of those comments as public records in the informal rulemaking process under the Administrative Procedure Act ("APA"), 5 U.S.C. §553, or other statutory provisions, the "Comments Online" system collects and stores comments received by the Commission and publishes them to [www.cftc.gov](http://www.cftc.gov). Comments Online also is used for the collection of input from the public that may not be directly associated with statutory or regulatory notice and comment requirements.

Specifically, the system includes a web form on [www.cftc.gov](http://www.cftc.gov) allowing individuals to submit comments or input electronically. Once submitted, the system stores the comments or other input in a database. Any comments received by fax, postal mail, or email are uploaded by Commission personnel into the database, collecting all comments into one database. Any comments or input added to the database are automatically published to [www.cftc.gov](http://www.cftc.gov).

During an informal rulemaking or other statutory or regulatory notice and comment process, Commission personnel may manually remove a comment from publication if the commenter withdraws his or her comments before the comment period has closed or because the comment contains obscenities or other material deemed inappropriate for publication by the Commission.

However, comments that are removed from publication will be retained by the Commission for consideration as required by the APA, or as part of the Commission's documentation of a comment withdrawal in the event that one is requested.

### 2. Data Collected and Stored within the System

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

1. PII Categories	2. Is collected, processed, disseminated, stored and/ accessed by this system or project	3. CFTC Employees	4. Members of the Public	5. Other (e.g. contractors, other government employees)
Name (for purposes other than contacting federal employees)	X	X	X	X
Date of Birth				
Social Security Number (SSN, last 4 digits)				
Tax Identification Number (TIN)				
Photographic Identifiers				
Driver's License				
Mother's Maiden Name				
Vehicle Identifiers				
Mailing Address	X	X	X	X
E-Mail Address	X	X	X	X
Phone Number	X	X	X	X
Medical Records Number				
Medical Notes or some other Health Information				
Financial Account Information				
Certificates				
Legal Documents				
Device Identifiers				
Web Uniform Resource Locator(s)				
Education Records				
Military Status				
Employment Status				
Foreign Activities				
Other: Job Title	X	X	X	X

Individuals submitting comments or input on the web form in Comments Online must provide a first and last name, an email address, and their comments or input in text or an attachment, in accord with regulations implementing the Paperwork Reduction Act, 5 C.F.R. § 1320.3(h)(4). An organization submitting comments or input is required to list the name of the organization. Those submitting comments or input also may provide their job title, mailing address, and daytime telephone number.

Individuals are not prevented by the system from including additional personal information in the body of their submission. However, notification is given on both the comment submission instructions page and the comment form page on [www.cftc.gov](http://www.cftc.gov) that states that individuals should only submit information they wish to make publicly available. The notices warn individuals not to include account numbers, social security

numbers, home addresses, or other private, personal information that they do not want to be posted publicly.

No specific personal information is required for individuals or organizations to submit comments or input via fax, postal mail, or email, but a name or email address is preferred to allow the Commission to contact those submitting comments or input if needed.

The system may also contain summaries of ex parte communications input by CFTC staff related to the proposed rule, statutory or regulatory provision, or Commission activity.

The Commission reserves the right, but has no obligation, to review, pre-screen, filter, redact, refuse, or remove any submission or part of a submission that it may deem inappropriate for publication, such as a comment containing obscene language.

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

The sources of information will be individuals and industry groups who would like to provide comments or other input to the Commission.

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

The information is being collected to obtain feedback from the public and industry groups regarding the proposed rules and other Commission regulatory actions in accordance with the APA or other statutory or regulatory provisions, as well as input on Commission activities that may not be associated with notice and comment requirements.

The first and last names are being collected, and are needed for Commission business, to contact the submitter if needed. For comments, the name will allow commenters to be identified in the public record in accordance with the APA or other statutory or regulatory provisions. The email address is required to allow the Commission to reduce spam and avoid Internet bots, and send the submitter a link to his/her published submission.

## 2.4. How will the information be collected and used by the Commission?

The information will be collected through a web form on [www.cftc.gov](http://www.cftc.gov). Comments received by the Commission via fax, email, or postal mail will be scanned and uploaded into the system for publication on [www.cftc.gov](http://www.cftc.gov).

The information will be used by the Commission as a feedback mechanism for proposed rules and other Commission activities. As with all comments submitted during rulemaking proceedings, the comments will be part of the public record.

The email address will be used by the Commission to reduce spam, avoid Internet bots, send the submitter a link to his/her published submission, and possibly for Commission staff to contact the submitter to discuss his/her submission.

In addition to email, if provided by the submitter, the address and phone number may be used by Commission staff to contact the submitter to discuss his/her submission.

The comments and other input will be searchable on the Commission's website, [www.cftc.gov](http://www.cftc.gov), for example, comments will be searchable by the rule to which particular comments relate, the date of submission, the commenter's name, and, if provided by the commenter, his/her organization.

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

No, this system is not using technology in ways that CFTC has not previously employed.

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

The Commodity Exchange Act, 7 U.S.C. § 1 et seq., authorizes the CFTC to engage in rulemaking activities, and the APA imposes obligations on the CFTC to publish proposed rules, solicit feedback from the public, and consider such feedback in finalizing the rules. The Commission may also gather information from the public needed to effectively administer the Commodity Exchange Act, 7 U.S.C. § 1 et seq., according to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., and other laws, as it may be applicable.

### **3. Data and Records Retention**

3.1. How will the information in this system be managed throughout its lifecycle? For what period of time will data collected by this system be maintained and in what form will the data be retained?

During the time that Comments Online is accepting comments or other input on rulemaking or other Commission activities, the information submitted resides in the Comments Online database. When the deadline for accepting comments or other input on a particular issue passes, Comments Online will no longer accept comments or other input from the public on that particular issue. The information stays within Comments Online, however, it may also be copied into the Commission's eLaw system for purposes of analysis. A separate PIA was developed for the eLaw system. The eLaw PIA is available from CFTC's Privacy page.

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

Comments received per the notice and comment requirement of the APA will be retained permanently in accordance with the Commission's records disposition schedule. All other submissions received that do not fall under proposed rulemaking will be retained in accordance with the retention period for the appropriate subject item in the Commission's records disposition schedule.

### **4. Access to 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)?

Commission personnel and selected contractors who need to access the information to perform their duties will have access to information in the system. This includes but is not limited to personnel and contractors handling information technology issues, handling FOIA and Privacy Act requests and inquiries, and those involved in the rulemaking process. The following information will be accessible to these individuals: the submitter's first and last names, middle initial, and email address; if input by the submitter, his/her organization, job title, mailing address (street address, city, state, zip code, and country) and telephone number; and the comment or other input, including any attachments and any personally identifiable information that the submitter chooses to include in his/her comment, input, or attachment. These contractors are subject to confidentiality requirements and those subject to the Federal Acquisition Regulations ("FAR") are subject to FAR clauses concerning the Privacy Act, 52.224-1 and 52.224-1.

Of information submitted through the [www.cftc.gov](http://www.cftc.gov) web form, the following information will be accessible by the public on [www.cftc.gov](http://www.cftc.gov): the submitter's first and last name, middle initial, and if submitting on behalf of an organization, the organization's name; and the comment or input, including any attachments and any personally identifiable information that the submitter chooses to include in his/her comment, input, or attachment.

The following information, as input into the "Commenter Information" data fields, will not be published on [www.cftc.gov](http://www.cftc.gov) but may be disclosed under the Freedom of Information Act: submitter's business email address and in certain instances, submitter's personal email address; organization mailing address; and organization telephone number.

The information that will be public is marked with a "v" symbol after the field indicating that the field will be viewable to the public.

Of submissions submitted via fax, postal mail, or email, the information contained in the comments or input received by the Commission will be published to [www.cftc.gov](http://www.cftc.gov) and disclosable under FOIA, which may include personally identifiable information that the submitter chooses to include in his/her comment, input, or attachment.

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

As noted above, certain information will be publicly disclosed and/or available pursuant to a FOIA request. Information not publicly disclosed or subject to a FOIA request would only be shared outside the Commission using security measures appropriate to the personally identifiable data being shared and in accordance with the applicable Privacy Act System of Records Notice.

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 Commission will take to aggregate or de-identify the data.

All comments posted to Comments Online are published publicly on the site. Appropriate notification is presented to the submitter explaining that the information they provide will be published on the site.

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 Commission information?

Yes. A recipient can use the original dataset that is already publically available on the Comments Online site.

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

Any disclosures made outside of the CFTC can be tracked back through the disclosure to the original comment posted on the site or, if released through the FOIA, tracked in the Commission's electronic FOIA system, FOIAXpress.

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)?

To facilitate review, some of the data contained in the Comments Online database may be loaded into the Commission's e-Law application. The Commission's Office of Data Technology is responsible for protecting the privacy rights of individuals affected by the interface, including system administrators, developers, and managers.

## **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 is given on the comment submission instructions page and on the web form that solicits submitter information. The Privacy Policy on [www.cftc.gov](http://www.cftc.gov) provides additional notice concerning the collection, use, sharing, and other processing of personal data. The Comments Online System of Records Notice (SORN), CFTC-45 provides general notice of the collection. The Federal Register notice soliciting comments in response to a specific proposed rulemaking also notifies the public and industry groups about how their comments will be collected and used.

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?

Comments Online requires minimal personal data for submission of comments or other input: a first and last name, and email address, and for organizations, the organization name. A submitter may also submit comments or input without providing a name or email address online, or by sending comments or input via postal mail or fax.

For comments, notice is provided in the Federal Register notice that solicits the comments in response to a specific proposed rulemaking as well as in instructions provided on the Commission's website.

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 their information and request amendment by following the procedures set forth in 17 CFR §§ 146.3-5, 146.8-9. Questions may be directed to the Commission's Chief Privacy Officer at [privacy@cftc.gov](mailto:privacy@cftc.gov). Individuals are notified of these procedures through the Privacy Policy at [www.cftc.gov](http://www.cftc.gov).

## **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 safeguards include agency-wide Rules of Behavior, procedures for safeguarding personally identifiable information, and required annual privacy and security training. Technical security measures within CFTC include restrictions to limit computer access to authorized individuals, required use of strong passwords frequently changed, firewalls, intrusion detection activities, use of encryption for certain data types and transfers, and regular review of security procedures and best practices to enhance security, in accordance with the Federal Information Security Modernization Act. 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?

Once the information is submitted, the information is taken "as-is." CFTC relies on the submitter to submit accurate, relevant, timely, or complete information. The posting of any unprofessional, profane, or defamatory material may be removed from the website by Commission staff at its discretion.

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

No, the system does not provide the capability to locate an individual in real-time or monitor an individual. The system provides the capability to identify an individual and when voluntarily provided by the individual, to determine his/her address.

6.4 Are all IT security requirements and procedures required by federal law being followed to ensure that information is appropriately secured?

The CFTC follows all applicable Federal Information Security Management Act (FISMA) requirements to ensure that the information contained in Comments Online is appropriately secured. Under the Federal Information Processing Standards (FIPS) 199, the potential impact of a loss of confidentiality, integrity, or availability of the Comments Online system is categorized as “low.”

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

All CFTC personnel are subject to CFTC agency-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?

On [www.cftc.gov](http://www.cftc.gov), the comments and other input will be retrieved, and may be searched, by the submitter’s name, email, mailing address, organization (if provided), relevant rule if applicable, and/or date of submission.

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.

Yes. The Comments Online system is covered by SORN CFTC-45, “Comments Online 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 CFTC’s Privacy Policy on [www.cftc.gov](http://www.cftc.gov).

The collection, use, and disclosure of the information in this system have been reviewed by CFTC’s Office of General Counsel and CFTC’s Privacy Office, and they are consistent with the Commission’s Privacy Policy on [www.cftc.gov](http://www.cftc.gov).

## **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?

There is a risk of collecting and storing more personal information than is necessary to perform the comment review business function. To mitigate this risk, Commission staff performed an analysis of the data necessary to perform the function and decided to collect the least amount of personal data possible to accomplish the business function.

A remaining privacy risk is that an individual may include in the body of his/her comments or other submission or attachment unnecessary personally identifiable information. This risk has been minimized by the inclusion of warnings on both the Comments Online landing page and the input form page similar to the following:

***IMPORTANT REMINDER:*** *All comments entered below will be published on [www.cftc.gov](http://www.cftc.gov) without review and without removal of any personally identifying information or information that you or your business may wish to be held confidentially. Do not include social security numbers, your home address, or other personal information in your comment that you prefer not be made publicly available.*