

failure to have a reason to believe that a user has a permissible purpose for a consumer report provided pursuant to FCRA section 604(a)(3). A disclaimer does not change the fact that the consumer reporting company has failed to satisfy the requirements of 604(a)(3) and has provided a consumer report about a consumer to a person lacking a permissible purpose with respect to that consumer.

## 2. FCRA Section 604(f)

FCRA section 604(f) prohibits a person from using or obtaining a consumer report “unless . . . the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under [FCRA section 604]” and “the purpose is certified in accordance with FCRA section 607 by a prospective user of the report through a general or specific certification.”<sup>29</sup> Congress amended the FCRA to include section 604(f) in September 1996.<sup>30</sup> Before the 1996 amendments, FCRA section 604 did not impose limitations on users of consumer reports, only on consumer reporting agencies. The Bureau interprets FCRA section 604(f) to provide that consumer report users are strictly prohibited from using or obtaining consumer reports without a permissible purpose. Although some courts have applied a “reason to believe” standard for persons using or obtaining a consumer report, as at least one court has noted, the opinion most commonly cited in support of this standard was decided before the 1996 amendments.<sup>31</sup> Based on its plain language, the 1996 addition of FCRA section 604(f) clearly imposes a strict prohibition on using or obtaining a consumer report without a permissible purpose.<sup>32</sup>

Users of consumer reports must ensure that they do not violate

<sup>29</sup> 15 U.S.C. 1681b(f). As noted above, FCRA section 607(a) requires that a consumer reporting agency must, among other things, require that prospective users of consumer reports “certify the purposes for which the information is sought, and certify that the information will be used for no other purpose.” 15 U.S.C. 1681e(a).

<sup>30</sup> Consumer Credit Reporting Reform Act of 1996, Public Law 104–208, Div. A, tit. II, sec. 2404.

<sup>31</sup> See, e.g., *Blumenfeld v. Regions Bank*, No. 4:16–CV–01652–ACA, 2018 WL 4216369, at \*5 (N.D. Ala. 2018) (holding that “[FCRA section 604(f)] does not incorporate the ‘reason to believe’ language from [FCRA section 604(a)],” and noting that the opinion in *Korotki v. Att’y Servs. Corp. Inc.*, 931 F. Supp. 1269, 1276 (D. Md. 1996) (applying section 604(a)(3)’s “reason to believe” standard to users), was decided prior to the 1996 amendments to the FCRA that added section 604(f)).

<sup>32</sup> Pursuant to FCRA sections 616 and 617, a person is civilly liable to a consumer for violations of section 604(f) if they have negligently or willfully failed to comply with the requirement. 15 U.S.C. 1681n, 1681o.

consumer privacy by obtaining consumer reports when they lack a permissible purpose for doing so. For example, in 2018 a company settled Bureau allegations that it violated FCRA section 604(f) when its agents obtained consumer reports for consumers who were not seeking an extension of credit from the company and the company had no other permissible purpose for the consumer reports it obtained.<sup>33</sup> In some instances, for example, the company’s agents initiated credit applications for the wrong consumer by incorrectly inputting consumer information into the company’s application system or by selecting the wrong consumer from a list of possible consumers identified in the system. When these applications were initiated in error, the company obtained a consumer report for a consumer with respect to which it had no permissible purpose, violating the FCRA’s permissible purpose provisions and the privacy of the consumers that were the subject of those reports, and also generating an inquiry on the consumers’ credit reports.<sup>34</sup>

## II. Regulatory Matters

This advisory opinion is an interpretive rule issued under the Bureau’s authority to interpret the FCRA, including under section 1022(b)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act,<sup>35</sup> which authorizes guidance as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial laws.<sup>36</sup>

As an interpretive rule, this advisory opinion is exempt from the notice-and-comment rulemaking requirements of the Administrative Procedure Act.<sup>37</sup> Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.<sup>38</sup> The Bureau has also determined that this advisory opinion does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of

<sup>33</sup> *In re State Farm Bank, FSB*, 2018–CFPB–0009, at ¶¶ 17–19 (Dec. 6, 2018), [https://files.consumerfinance.gov/f/documents/bcftp\\_state-farm-bank\\_consent-order.pdf](https://files.consumerfinance.gov/f/documents/bcftp_state-farm-bank_consent-order.pdf).

<sup>34</sup> *Id.*

<sup>35</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

<sup>36</sup> 12 U.S.C. 5512(b)(1).

<sup>37</sup> 5 U.S.C. 553(b).

<sup>38</sup> 5 U.S.C. 603(a), 604(a).

Management and Budget under the Paperwork Reduction Act.<sup>39</sup>

Pursuant to the Congressional Review Act,<sup>40</sup> the Bureau will submit a report containing this interpretive rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule’s published effective date. The Office of Information and Regulatory Affairs has designated this interpretive rule as not a “major rule” as defined by 5 U.S.C. 804(2).

**Rohit Chopra,**

*Director, Consumer Financial Protection Bureau.*

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## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 1

#### Fees for Reviews of the Rule Enforcement Programs of Designated Contract Markets and Registered Futures Associations; Correction

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notification of 2021 schedule of fees; correction.

**SUMMARY:** The Commodity Futures Trading Commission (Commission) is correcting a document published in the **Federal Register** on June 17, 2022. The document contained incorrect assessed fee data for four of the entities in Table 2. This document corrects the data contained in those inaccurate sixteen cells in Table 2.

**DATES:** Each self-regulatory organization is required to remit electronically the applicable fee on or before August 16, 2022.

**FOR FURTHER INFORMATION CONTACT:** Joel Mattingley, Chief Financial Officer, Commodity Futures Trading Commission; (202) 418–5310; Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; [jmattingley@cftc.gov](mailto:jmattingley@cftc.gov). For information on electronic payments, contact Jennifer Fleming; (202) 418–5034; [jffleming@cftc.gov](mailto:jffleming@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

#### Correction

In FR Rule Doc. 2022–13141, appearing on page 36409 in the **Federal Register** of Friday, June 17, 2022, Table 2—Schedule of Fees is corrected to read as follows:

<sup>39</sup> 4 U.S.C. 3501–3521.

<sup>40</sup> 5 U.S.C. 801 *et seq.*

TABLE 2—SCHEDULE OF FEES

	3-Year average actual costs	3-Year total volume (%)	Adjusted volume costs	2021 assessed fee
Cantor Futures Exchange, L.P .....	\$26,418	0.03	\$13,319	\$13,319
CBOE Futures Exchange, LLC .....	26,625	1.24	17,482	17,482
Chicago Board of Trade .....	27,058	33.31	125,158	27,058
Chicago Mercantile Exchange, Inc .....	293,282	42.97	290,666	290,666
Eris Exchange, LLC .....	11,057	0.00	5,540	5,540
ICE Futures U.S., Inc .....	105,620	6.59	74,885	74,885
Minneapolis Grain Exchange, Inc .....	13,321	0.05	6,813	6,813
Nasdaq OMX Futures Exchange, Inc .....	37,051	0.27	19,444	19,444
New York Mercantile Exchange/Commodity Exchange, Inc .....	49,377	15.11	75,328	49,377
Nodal Exchange, LLC .....	11,825	0.08	6,180	6,180
North American Derivatives Exchange, Inc .....	48,248	0.21	24,844	24,844
OneChicago, LLC Futures Exchange .....	20,425	0.13	10,648	10,648
Subtotal .....	670,307	100.00	670,307	546,255
National Futures Association .....	538,738	.....	.....	538,738
Total .....	1,209,044	100.00	670,307	1,084,993

Columns may not add due to rounding.

Issued in Washington, DC, on this 7th day of July, 2022, by the Commission.  
**Robert Sidman,**  
*Deputy Secretary of the Commission.*  
 [FR Doc. 2022-14820 Filed 7-11-22; 8:45 am]  
 BILLING CODE 6351-01-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[Docket No. USCG-USCG-2022-0592]

**Special Local Regulation; Poquoson Seafood Festival Workboat Races; Back River, Poquoson, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce a special local regulation for the Poquoson Seafood Festival Workboat Races on the Back River, VA, on September 18, 2022, to provide for the safety of life on navigable waterways during this event. Coast Guard regulations for marine events within the Fifth Coast Guard District identifies the regulated area for this event in Poquoson, VA. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or local law enforcement vessel approved by the Captain of the Port (COTP).

**DATES:** The regulations in 33 CFR 100.501 will be enforced for the location

identified for the Poquoson Seafood Festival Workboat Races in table 3 to paragraph (i)(3) to § 100.501 from 10 a.m. until 6 p.m. on September 18, 2022.

**FOR FURTHER INFORMATION CONTACT:** If

you have questions about this notification of enforcement, call or email LCDR Ashley Holm, Chief, Waterways Management Division, Sector Virginia, U.S. Coast Guard; telephone 757-668-5580; email *Ashley.E.Holm@uscg.mil*.

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the special local regulation in 33 CFR 100.501 for the Poquoson Seafood Festival Workboat Races from 10 a.m. to 6 p.m. on September 18, 2022. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Fifth Coast Guard District, § 100.501, specifies the location of the regulated area for the Poquoson Seafood Festival Workboat Races which encompasses portions of the Back River. During the enforcement periods, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or local law enforcement vessel approved by the COTP.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and Broadcast Notice to Mariners.

Dated: July 6, 2022.  
**Jennifer A. Stockwell,**  
*Captain, U.S. Coast Guard, Captain of the Port Virginia.*  
 [FR Doc. 2022-14770 Filed 7-11-22; 8:45 am]  
 BILLING CODE 9110-04-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[Docket No. USCG-2022-0571]

**Special Local Regulations; Columbia River Cross Channel Swim, Columbia River, Pasco, WA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce special local regulations for the 3 Rivers Road Runners Columbia River Cross Channel Swim September 10, 2022, to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Thirteenth Coast Guard District identifies the regulated area for this event in Pasco, WA. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any official patrol vessel. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the Captain of the Port, Sector Columbia River.