



COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974 System of Records Notice

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; publication of character of one revised system of records and two new systems of records

SUMMARY: The Commodity Futures Trading Commission (Commission) is revising one system of records under the Privacy Act of 1974: CFTC-44, Personnel Security Files, to be renamed CFTC-44, Personnel Clearance System. The Commission also is establishing two new systems of records: CFTC-48, Personal Property Claims, and CFTC-49, Whistleblower Records (Exempted). Revisions to CFTC-44 incorporate enhancements to the system of records with a new streamlined process of capturing personal information, minimizing paper records and eliminating manual entry into a legacy application when an individual applies for a security clearance. New CFTC-48 addresses information collected through a new process for employees to file and have adjudicated claims for damage or loss of certain personal property, as stated in Commission policies and applicable law. New CFTC-49 addresses information collected for the Commission's whistleblower program, which is described and defined in Section 23 of the Commodity Exchange Act, 7 U.S.C. § 26, and the rules promulgated thereunder, 17 C.F.R. § 165.

DATES: Comments must be received on or before [Insert date 30 days after publication in the Federal Register]. This action will be effective without further notice on [Insert date 40 days after publication in the Federal Register], unless revised pursuant to comments received.

ADDRESSES: You may submit comments identified by "Personnel Clearance System SORN," "Personal Property Claims SORN," or "Whistleblower Records SORN" by any of the following methods:

- Agency web site, via its Comments Online process: <http://comments.cftc.gov>. Follow the instructions for submitting comments through the web site.

- Federal eRulemaking Portal: Comments may be submitted at <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- Hand Delivery/Courier: Same as mail above.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to www.cftc.gov. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in Section 145.9 of the Commission's regulations, 17 C.F.R. § 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of a submission from www.cftc.gov that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the notice will be retained in the public comment file and will be considered as required under all applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Kathy Harman-Stokes, Chief Privacy Officer, kharman-stokes@cftc.gov, 202-418-6629, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION:

I. The Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. § 552a, a “system of records” is defined as any group of records under the control of a federal government agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act establishes the means by which government agencies must collect, maintain, and use personally identifiable information associated with an individual in a government system of records.

Each government agency is required to publish a notice in the Federal Register of a system of records in which the agency identifies and describes each system of records it maintains, the reasons why the agency uses the personally identifying information therein, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act to determine if the system contains information about them, among other things.

II. Routine Uses

Information in the systems of records covered by this Federal Register notice may be disclosed in accordance with the blanket routine uses numbered 1 through 19 published at 76 Fed. Reg. 5974 (Feb. 2, 2011) and copied below for convenience. These blanket routine uses apply to all CFTC systems of records, except as otherwise provided in a specific system of records notice:

1. Information may be used by the Commission in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act or in any

other action or proceeding in which the Commission or its staff participates as a party or the Commission participates as amicus curiae.

2. Information may be disclosed to 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.
3. Information may be given to any “registered entity,” as defined in section 1a of the Commodity Exchange Act , 7 U.S.C. 1 et seq. (“the Act”), if the Commission has reason to believe that such information will assist the registered entity in carrying out its responsibilities under the Act. Information may also be given to any registered futures association registered under Section 17 of the Act (e.g., the National Futures Association) to assist it in carrying out its self-regulatory responsibilities under the Act, and to any national securities exchange or national securities association registered with the Securities and Exchange Commission to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. § 78a et seq.
4. At the discretion of the Commission staff, information may be given or shown to anyone during the course of a Commission investigation if the staff has reason to believe that the person to whom it is disclosed may have further information about the matters discussed therein, and those matters appear relevant to the subject of the investigation.
5. Information may be included in a public report issued by the Commission following an investigation, to the extent that this is authorized under Section 8 of the Commodity Exchange Act, 7 U.S.C. § 12. Section 8 authorizes publication of such reports but contains restrictions on the

publication of certain types of sensitive business information developed during an investigation. In certain contexts, some of this information might be considered personal in nature.

6. Information may be disclosed to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, or a grant or other benefit by the requesting agency, to the extent that the information may be relevant to the requesting agency's decision on the matter.
7. Information may be disclosed to a prospective employer in response to its request in connection with the hiring or retention of an employee, to the extent that the information is believed to be relevant to the prospective employer's decision in the matter.
8. Information may be disclosed to any person, pursuant to Section 12(a) of the Commodity Exchange Act, 7 U.S.C. § 16(a), when disclosure will further the policies of that Act or of other provisions of law. Section 12(a) authorizes the Commission to cooperate with various other government authorities or with "any person."
9. Where information, either alone or in conjunction with other information indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant information may be disclosed to the appropriate Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.
10. Information may be disclosed to the General Services Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

11. Information may be disclosed to the National Archives and Records Administration for the purpose of records management inspections being conducted under the authority of 44 U.S.C. §§ 2904 and 2906.
12. Information may be disclosed to foreign law enforcement, investigatory, or administrative authorities in order to comply with requirements set forth in international arrangements, such as memoranda of understanding.
13. Information may be disclosed to contractors, grantees, volunteers, experts, students, and others performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government when necessary to accomplish an agency function.
14. Information may be disclosed to the Merit Systems Protection Board, including the Office of Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems.
15. Information may be disclosed to the Department of Justice or in a proceeding before a court, adjudicative body, or other administrative body which the agency is authorized to appear, when:
 - a. the agency, or any component thereof; or
 - b. any employee of the agency in his or her official capacity; or
 - c. any employee of the agency in his or her official capacity where the Department of Justice or the agency has agreed to represent the employee; or
 - d. the United States, when the agency determines that litigation is likely to affect the agency or any of its components;

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the agency is deemed by the agency to be relevant and necessary to the

litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

16. Information may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, or at the request of, the individual who is the subject of the record.
17. Information related to any traders or the amount or quantity of any commodity purchased or sold by such traders may be disclosed to any committee of either House of Congress upon its request, acting within the scope of its jurisdiction, pursuant to the Commodity Exchange Act, 7 U.S.C. § 1 et seq., including Section 8(e) of such Act at 7 U.S.C. § 12, and the rules and regulations promulgated thereunder.
18. Information may be disclosed to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding.
19. Information may be disclosed to appropriate agencies, entities, and individuals when:
 - a. the Commission suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
 - b. the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity) that rely upon the compromised information; and
 - c. the disclosure made to such agencies, entities, and individuals is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

III. Personnel Clearance System

The Commission proposes to revise a system of records, CFTC-44, Personnel Security Files, to rename the system CFTC-44, Personnel Clearance System (PCS) and to identify enhancements. The PCS will contain information about individuals who require regular, on-going access to CFTC assets, including facilities, information technology systems or information classified in the interest of national security. The individuals may be Commission employees, contractors, interns, volunteers, candidates for employment, individuals formerly in any of these positions, and others.

Any individual who will regularly access CFTC assets must receive an official security clearance before access is authorized. CFTC collects personal information from the individual, such as social security number and date of birth. CFTC provides elements of that information to Federal investigative agencies, such as OPM. Once the completed investigation is provided to the CFTC, the CFTC adjudicates the clearance request.

In the past, the CFTC has handled much of this process manually, on paper, using a legacy, MS-Access-based application. The new system will minimize the need for paper records, thereby improving security of personal information. It also will eliminate the need for manual input of personal information into the legacy application, increasing efficiency and the accuracy of information. In addition, the enhancements will make it easier to share security clearance processing information in a timely manner with appropriate Federal officials.

IV. Personal Property Claims

The Commission is developing a policy and procedure for employee claims for damaged or lost personal property, pursuant to the Military Personnel & Civilian Employees' Claims Act of 1964, 31 U.S.C. § 3721. Under the policy and procedure, the Commission will pay or otherwise settle employee claims up to a defined amount per incident for damage or loss of personal property under certain circumstances.

The new system of records will include all information collected about the personal property claim from the employee and the related documentation of decisions and payment of such claims. The information will facilitate the review of the claim and collection of evidence by the Logistics and Operations Unit (L&O), the Executive Director's decision on the claim, and the payment for or replacement of the property. The new system of records also will contain information on requests for reconsideration when claims have been denied.

V. Whistleblower Records (Exempted)

The Commission is creating a system to maintain records related to the whistleblower program, which is described and defined in Section 23 of the Commodity Exchange Act, 7 U.S.C. § 26, and the rules promulgated thereunder, 17 C.F.R. § 165. The system may include all or any part of the records developed during the whistleblower tip, complaint or referral submission process, investigation or inquiry, and/or whistleblower award claim and determination process, including but not limited to data from Commission reporting forms, such as Commission Forms TCR and WB-APP, documents and information related to the whistleblower program, and records drafted and/or compiled for the Commission's Whistleblower Award Determination Panel. This system may include: records, data and correspondence submitted by and sent to whistleblowers and/or their representatives; correspondence with other law enforcement and regulatory agencies regarding referral of whistleblower information and related actions brought by such agencies based on whistleblower information; interviews, memoranda and

other work products prepared by Commission staff; affidavits, statements by witnesses, contracts and agreements with whistleblowers, including confidentiality agreements; and information available on the Internet or other electronic sources accessed for purposes of the whistleblower program. The system may also contain internal memoranda and declarations of Commission staff, correspondence and other miscellaneous investigatory matters.

VI. Notice: Personnel Clearance System

SYSTEM NUMBER:

CFTC-44

SYSTEM NAME:

Personnel Clearance System (PCS)

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system is located in the Commission's principal office , at Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who require regular, ongoing access to CFTC facilities, information technology systems, or information classified in the interest of national security, including candidates for Commission employment or contracts, Commission employees, contractors of the Commission, students, interns, volunteers, individuals authorized to perform or use services provided in Commission facilities, and individuals formerly in any of these positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include any or all of the following: first name, last name, social security number, date of birth, state of birth, country of birth, non CFTC phone number, non CFTC email address, CFTC duty location, CFTC hiring division, hiring manager, job title, job series, job grade, journeymen job

grade, appointment type, prior CFTC employment, prior employment year, prior employment division, business manager, proposed start date, level of clearance needed, clearance valid date, clearance related investigation status, and clearance related investigation notes; copies of and information derived from passports, birth certificates, driver's licenses, OF 306 forms, US "I-9 Forms" and resumes; information provided by the Office of Personnel Management (OPM) for clearance determination purposes; and in addition for contractors only, estimated contract end date, option year information, hiring manager and/or Contract Officer Technical Reviewer (COTR), contract number, company name, company point of contact, and company address.

(Note: This system of records does not include the Office of Personnel Management (OPM) background investigation report. An identical version of the investigation report is in the possession of the Commission, but is considered to be part of the OPM Central-9, Personnel Investigations Records. For information on how to request access to the OPM Central-9, Personnel Investigations Records, please see the Note in the Records Access Procedures section of this notice.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

Applicants and appointees to Federal service are subject to a background investigation under 5 CFR Parts 731, 732, and 736, Executive Order 10450, "Security Requirements for Government Employment" and the agency memorandum exercising authority to conduct investigations of non-competitive service applicants and appointees under these authorities. See also Executive Order 13292, "Classified National Security Information," and Executive Order 12968, "Access to Classified Information." HSPD-12 clarified that Federal contractors are also subject to background investigation under these authorities. The Office of Personnel Management (OPM) is authorized to collect this information under 5 U.S.C. §§ 3301, 3302, and 9101. 5 U.S.C. § 1104 allows OPM to delegate the personnel management function to other Federal agencies.

Solicitation of the Social Security Number is also authorized by Executive Order 9397, which asks Federal agencies to use this number to help identify individuals in agency records.

PURPOSE(S):

The records in this system are used to verify identity and to facilitate background investigations by OPM and adjudications by the CFTC Security and Emergency Management Officer. .

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be disclosed as stated below:

- a. Except as noted on Forms SF 85, 85-P, and 86, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate public authority, whether Federal, foreign, State, local, or tribal, or otherwise, responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.
- b. Employment, Clearances, Contract, or Other Benefits Decision by an Organization other than the Commission – disclosure may be made to a Federal State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, or the letting of a contract. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been

determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

- c. National Security and Intelligence Matters – these records may be disclosed to Federal, State, local agencies, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

Information also may be disclosed as stated in the blanket routine uses numbered 1 through 19 that appear at the beginning of the Commission’s compilation of its systems of records notices at 76 Fed. Reg. 5974 (Feb. 2, 2011), and copied in this Federal Register notice above for convenience, “Supplementary Information,” “II. Routine Uses.”

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESS CONTROLS, SAFEGUARDS, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The data will be collected and maintained electronically and in paper files. Paper records are stored in file folders, binders, computer files and computer disks. Electronic records, including computer files and electronically maintained data, are stored on the Commission’s network and other electronic media as needed, such as encrypted hard drives.

RETRIEVABILITY:

Files are retrieved by name of the individual.

ACCESS CONTROLS, SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through various administrative, technical and physical security measures. Technical security measures within CFTC 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. Physical measures include restrictions on building access to authorized individuals only and maintaining records in lockable offices and filing cabinets. These records are kept in electronic form and in file folders in locked metal file cabinets in locked rooms at the headquarters office in the Security and Emergency Management Office.

RETENTION AND DISPOSAL:

The records will be maintained and disposed of in accordance with General Records Schedule 18, Item 22a and Item 22b. The schedules are available at www.cftc.gov. The data will be deleted by the Personnel Security staff 90 days after the separation of the individual from CFTC.

SYSTEM MANAGER(S) AND ADDRESS:

Security and Emergency Management Office within Logistics and Operations in the Commission's Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him/her by sending a request in writing, signed, to the Office of General Counsel, Paralegal Specialist, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone (202) 418-5011.

When requesting notification of, or access to, records covered by this Notice, an individual should provide his/her full name, date of birth, agency name, and work location. An individual requesting notification of records in person must provide identity documents, such as a government-issue photo ID, sufficient to satisfy the custodian of the records that the requester is entitled to access. Individuals requesting notification via mail or telephone must furnish, at a minimum, name, date of birth, social security number, and home address in order to establish identity.

(Note: For information on how to request access to the OPM Personnel Investigations Records which are part of the OPM Central-9 system of records, please see the Note in the Records Access Procedures section of this notice.)

RECORDS ACCESS PROCEDURES:

Individuals wishing to request access to CFTC records about them should contact the system manager indicated above. Individuals must furnish their full name (first, middle, and last name) and birth date for their record to be located and identified. An individual requesting access must also follow CFTC Privacy Act requirements regarding verification of identity and amendment of records. Correspondence between the requester and Human Resources staff on the subject of any background investigation and security adjudication may also be made available.

(Note: The CFTC may not provide an individual with access to his/her OPM Personnel Investigations Records or to copies of OPM documentation of any background investigation conducted by OPM or contractors dealing with those investigations. These records, which are sent to the CFTC Security and Emergency Management Office to allow adjudication of the request for security clearance, are owned by OPM and reside within the OPM Central-9 system of records. OPM is solely responsible for controlling access to, or amendment of, those records. Those seeking access to, or amendment, of those records owned by OPM should submit a request in writing to the Federal Investigations Processing Center, as stated in OPM Central-9. The signed request should be made under the Privacy Act of 1974 and include the requester's full name, home address, Social Security Number, date and place of birth, and other information requested by OPM.)

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their CFTC records should contact the system manager indicated above. Individuals must furnish their full name (first, middle, and last name) and birth date for the record to be located and identified. An individual requesting amendment must also follow the CFTC Privacy Act requirements regarding verification of identity and amendment of records.

(**Note:** Individuals who wish to request amendment of their OPM Personnel Investigations Records should follow the requirements of the OPM Central-9 system of records. For information on how to submit such a request, please see the Note in the Records Access Procedures section of this notice.)

RECORD SOURCE CATEGORIES:

The individual and OPM will provide the information for this system of records.

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

None.

VII. Notice: Personal Property Claims

System Number:

CFTC-48

SYSTEM NAME:

Personal Property Claims

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system is located in the Commission's principal office at Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CFTC employees and former employees who have experienced damage to or loss of personal property incident to Commission business. Covered individuals also may include authorized agents or legal representatives of CFTC employees or former employees, or their survivors.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records includes the information provided by employees on a CFTC Personal Property Claims form, including the following when applicable: name of employee, information concerning the damage or loss of personal property, personal property at issue, corroborating statements from persons who have personal knowledge of the facts concerning the claim, either an itemized bill for repair of damaged property, or an itemized repair estimate or bill of sale or value estimate from a competent repairman or appraiser, evidence that the employee has filed a claim with the carrier or insurer, and copies of any pertinent correspondence, copies of travel and transportation orders, a statement concerning any reimbursement obtained from a carrier or insurer, describing reimbursement received for each item, copies of police reports, and other evidence which may be needed for CFTC review and determination of whether to pay the claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. 3721, authorizes heads of federal agencies to pay or otherwise settle claims of employees up to a limit specified by the Act and/or CFTC policies for damage or loss of personal property incident to their services.

PURPOSE(S):

The purpose of the system of records is to include all information related to claims by employees for damage to or loss of personal property incident to Commission business, as provided in the Military Personnel & Civilian Employees' Claims Act of 1964, 31 USC § 3721. The system will facilitate the review of a claim and collection of evidence by CFTC Logistics and Operations Unit (L&O); will facilitate the Executive Director's decision as to whether to pay a claim, offer a replacement of the property in kind or otherwise settle the claim; will facilitate processing through Financial Management; and when a claim has been denied, will allow a claimant to request reconsideration, as stated in Commission policy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in this system will be routinely used by CFTC staff in the Office of the Executive Director, including L&O, Security and Emergency Management Office and Financial Management Branch to review, process and adjudicate personal property claims. Information also may be disclosed as stated in the blanket routine uses numbered 1 through 19 that appear at the beginning of the Commission's compilation of its systems of records notices at 76 Fed. Reg. 5974 (Feb. 2, 2011), and copied in this Federal Register notice above for convenience, "Supplementary Information," "II. Routine Uses."

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESS CONTROLS,
RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM**

STORAGE:

Paper records are stored in file folders, binders, computer disks, and are uploaded into the CFTC network. Electronic records, including emails, spreadsheets, PDF files and documents are maintained on a SharePoint site, are stored on the Commission's network and other electronic media as needed, such as encrypted hard drives and back-up media.

RETRIEVABILITY:

By name of the employee who files the personal property claim.

ACCESS CONTROLS, SAFEGUARDS:

Records in the system are protected from unauthorized access and misuse through various administrative, technical and physical security measures. Technical security measures within CFTC 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. Physical measures include restrictions on building access to authorized individuals only and maintaining records in lockable offices and filing cabinets.

RETENTION AND DISPOSAL:

The records will be maintained in accordance with records disposition schedules approved by the

National Archives and Records Administration. The schedules are available at www.cftc.gov.

SYSTEM MANAGER(S) AND ADDRESS:

Logistics & Operations in the Commission's Office of the Executive Director, located at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the Office of General Counsel, Paralegal Specialist, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone (202) 418-5011.

RECORD SOURCE CATEGORIES:

Individuals who file personal property claims; the individual's supervisor; information from witnesses collected by the Security and Emergency Management Office staff; the Executive Director, who makes the final decision regarding settlement of the claim; and personnel in the Commission's Financial Management Branch who handle financial reimbursement issues.

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

None.

VIII. Notice: Whistleblower Records (Exempted)

System Number:

CFTC-49

SYSTEM NAME:

Whistleblower Records (Exempted)

SYSTEM LOCATION:

This system is located in the Whistleblower Office, in the Office of the Executive Director, in the Commission's principal office at Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

- a. Individuals who have submitted tips, complaints or referrals, award applications and/or related documents or information to the Whistleblower Office in relation to the Commission's whistleblower program, and any individuals who are referenced in any information submitted to or accessed by the Whistleblower Office in relation to the whistleblower program.
- b. Individuals whom the Commission staff has reason to believe have violated, are violating, or are about to violate the Commodity Exchange Act and the rules, regulations and orders promulgated thereunder.
- c. Individuals whom the Commission staff has reason to believe have violated, are violating, or are about to violate a law or regulation or order of another federal, state or foreign authority.
- d. Individuals whom the Commission staff has reason to believe may have information concerning violations of the Commodity Exchange Act and the rules, regulations and orders promulgated thereunder.

- e. Individuals whom the Commission staff has identified as relevant to an enforcement investigation, such as complainants, witnesses and counsel.
- f. Individuals whom a foreign law enforcement authority has found or alleges to have, or suspects of having, violated foreign laws, rules, regulations or orders of such foreign law enforcement authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system may include all or any part of the records developed during the whistleblower tip, complaint or referral submission process, investigation or inquiry, or whistleblower award claim and determination process, as described in Section 23 of the Commodity Exchange Act, 7 U.S.C. § 26, and the rules promulgated thereunder, 17 C.F.R. § 165, including but not limited to data from Commission reporting forms, such as Commission Forms TCR and WB-APP, documents and information related to the whistleblower program, and records drafted and/or compiled for the Commission's Whistleblower Award Determination Panel whose disclosure the Commission staff has determined could impair the effectiveness and orderly conduct of the Commission's whistleblower, regulatory and enforcement programs or compromise Commission investigations. This system may include: records, data and correspondence submitted by and sent to whistleblowers and/or their representatives; correspondence with other law enforcement and regulatory agencies regarding referral of whistleblower information and related actions brought by such agencies based on whistleblower information; interviews, memoranda and other work products prepared by Commission staff; affidavits, statements by witnesses, contracts and agreements with whistleblowers, including confidentiality agreements; and information available on the Internet or other electronic sources accessed for purposes of the whistleblower program. The system may also contain internal memoranda and declarations of Commission staff, correspondence and other miscellaneous investigatory matters. The nature of the personal information contained in these files varies according to what has been submitted by the whistleblower and/or his/her representative, and may include personal background information about individuals involved, their education and employment history, social security numbers, trading account details, information on prior violations, and a wide variety of financial information, as well as a detailed examination of the individuals' activities during the period in question.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Commodity Exchange Act Section 23, 7 U.S.C. § 26, and the rules promulgated thereunder, 17 C.F.R. § 165, authorizing the creation and administration of the Commission’s whistleblower program.

PURPOSE(S):

The Commission’s whistleblower program is designed to pay awards to eligible individuals who voluntarily provide the Commission with original information about violations of the Commodity Exchange Act (CEA) that lead to the successful enforcement of covered judicial or administrative actions, or related actions. The whistleblower provisions also prohibit retaliation by employers against individuals who provide the Commission with information about possible CEA violations. As part of its administration of the whistleblower program, the Commission’s Whistleblower Office maintains records of whistleblower tips, complaints, award claims and related supplemental records and correspondence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be disclosed in accordance with the blanket routine uses numbered 1 through 19 that appear at the beginning of the Commission’s compilation of its systems of records notices at 76 Fed. Reg. 5974 (Feb. 2, 2011), and copied in this Federal Register notice above for convenience, “Supplementary Information,” “II. Routine Uses,” which will be exercised in accordance with Commodity Exchange Act Section 23(h)(2), 7 U.S.C. § 26(h)(2), and rule 165.4 thereunder, 17 C.F.R. § 165.4.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in file folders and binders. Electronic records, including PDFs of paper records and computer files, are stored on the Commission's network and on various other electronic media as needed, such as encrypted hard drives.

RETRIEVABILITY:

By the name, submission number or other individual identifier of the individual or individuals seeking whistleblower status or claiming a whistleblower award.

SAFEGUARDS:

Records are protected from unauthorized access and improper use through administrative, technical and physical security measures. Technical security measures within the Commission 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. Physical measures include restrictions on building access to authorized individuals and maintenance of certain records in secured filing rooms and/or locked filing cabinets. Also, all employees are made aware of the sensitive nature of whistleblower information.

RETENTION AND DISPOSAL:

1. Whistleblower Submission Files:

- a. Includes but is not limited to Forms TCR and WB-APP, records provided by whistleblowers and/or their representatives in support of their submissions, memoranda of interviews with whistleblowers, correspondence with whistleblowers and/or their representatives, and other related records.
 - b. Such files will be closed after the last action on the relevant Division of Enforcement matter, after the final appeal of the decision of the Whistleblower Award Determination Panel is exhausted, or after the award payment to the whistleblower has been made, whichever is applicable and whichever is latest (the cut-off date). Such files will be destroyed 15 years after the end of the fiscal year on which the latest cut-off date occurs.
2. Whistleblower Award Determination Panel Records:
- a. Includes but is not limited to documentation that the Whistleblower Office collects and prepares for the Whistleblower Award Determination Panel to make eligibility and award decisions, the Panel's determinations, records documenting payment of awards to whistleblowers, Panel membership lists and other records related to the administration of the Panel, and other related records.
 - b. Such files will be closed after the final appeal of the Whistleblower Award Determination Panel decision is exhausted, or after the award payment to the whistleblower has been made, whichever is applicable and whichever is latest (the cut-off date). Such files will be transferred to the National Archives and Records Administration 15 years after the end of the fiscal year in which the latest cut-off date occurs.

All whistleblower records remain exempt from disclosure under the Privacy Act.

SYSTEM MANAGER(S) AND ADDRESS:

Whistleblower Officer in the Office of the Executive Director, in the Commission's principal office at Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

RECORD SOURCE CATEGORIES:

Reporting forms and other information filed with or submitted to the Commission by: individuals interested in participating in the whistleblower program; self-regulatory organizations; individuals or firms covered by the Commission's registration requirements; federal, state and local regulatory and law enforcement agencies; banks, credit organizations and other institutions; corporations; individuals having knowledge of the facts; attorneys; publications; courts; the Whistleblower Award Determination Panel; and other sources which may have information related to the handling of a whistleblower matter.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The records in this system have been exempted by the Commission from certain provisions of the Privacy Act of 1974 pursuant to the terms of the Privacy Act, 5 U.S.C. § 552a(k)(2), and the Commission's rules promulgated thereunder, 17 C.F.R § 146.12. These records are exempt from the notification procedures, records access procedures, and record contest procedures set forth in the system notices of other systems of records, and from the requirement that the sources of records in the system be described.

Issued in Washington, DC this 3rd day of July 2012, by the Commission,

Sauntia S. Warfield

Assistant Secretary of the Commission.

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