



COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Commodity Futures Trading Commission (CFTC or Commission) is republishing existing SORN: National Futures Association (NFA) Applications Suite System, CFTC-12. The modification will add two routine uses, clarify existing routine uses, and bring the SORN in compliance with the Office of Management and Budget (OMB) Circular A-108 SORN template. The two new routine uses pertain to sharing information to mitigate a breach and are required by OMB Memorandum 17-12. Other updates include identifying the specific routine uses applicable to the system of records rather than relying on CFTC's previously published blanket routine uses, and administrative updates to comply with the OMB Circular A-108 SORN template format.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. This action will be effective without further notice on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, unless revised pursuant to comments received.

ADDRESSES: You may submit comments identified as pertaining to "National Futures Association Applications Suite System" by any of the following methods:

- Agency website, via its Comments Online process: <https://comments.cftc.gov>.

Follow the instructions for submitting comments through the website.

- Mail: Christopher Kirkpatrick, 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 <http://www.cftc.gov>. You should submit only information that you wish to make available publicly.

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 <http://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 comment file and will be considered as required under all applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Melissa Jurgens, Acting Chief Privacy Officer, 202-418-5516, privacy@cftc.gov, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. National Futures Association

The National Futures Association (NFA) is a not-for-profit membership corporation formed in 1976 that serves as an industry self-regulatory organization under Section 17 of the Commodity Exchange Act (CEA). NFA's formal designation as a "registered futures association" was granted by the CFTC in 1981 and NFA's regulatory operations began in 1982.

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.

II. 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 by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act establishes the means by which government agencies must collect, maintain, and use information about an individual in a government system of records.

Each government agency is required to publish a notice in the *Federal Register* in which the agency identifies and describes each system of records it maintains, the reasons

why the agency uses the 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.

In accordance with 5 U.S.C. 552a(r), CFTC has provided a report of this system of records to the Office of Management and Budget (OMB) and to Congress.

III. Notice: National Futures Association (NFA) Applications Suite System, CFTC-12.

SYSTEM NAME AND NUMBER: National Futures Association (NFA) Applications Suite System, CFTC-12.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: This system is located at the National Futures Association, 300 S. Riverside Plaza, Chicago, IL 60606 and the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

SYSTEM MANAGER(S): For records held by the Commission related to fitness investigations and registration: Director, Division of Swap Dealer and Intermediary Oversight (DSIO), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Surveillance Branch Chiefs in the regional offices at 525 West Monroe Street, Suite 1100, Chicago, IL 60661 and 140 Broadway, 19th Floor, New York, NY 10005. For records held by the Commission related to disciplinary action: Director, Division of Market Oversight (DMO), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. For records held by NFA contact: Vice President for Registration, National Futures Association, 300 South Riverside, Suite 1800, Chicago,

Illinois 60606.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: The collection of this information is authorized under The Commodity Exchange Act, 7 U.S.C. 1, *et seq.*, and the rules and regulations promulgated thereunder.

PURPOSE(S) OF THE SYSTEM: The records in this system are used to support the Commission's registration and other regulatory authority as delegated to NFA. This involves maintaining fitness investigation and other fitness related records, including investigatory material compiled for law enforcement purposes, non-fitness registration records, images of registration records, information related to disciplinary action taken by the CFTC and self-regulatory organizations; processing hard copy and electronic fingerprint cards; and maintaining a web based registration system, records related to notices of exemption or claims for exemption from certain CFTC requirements, and financial statements, reports, notices and other filings that enable NFA and the CFTC to oversee registrant activities for compliance with legal requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: This system includes information about individuals who have applied or who may apply for registration as futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, leverage transaction merchants, swap dealers, major swap participants, retail foreign exchange dealers and agricultural trade option merchants (ATOMs); individuals who file notices of exemption or claims for exemption from certain CFTC requirements; individuals who are or may become principals (as defined in 17 CFR 3.1); individuals who have applied or who may apply for registration as associated persons of the foregoing firms; and floor brokers and floor traders. This

system includes also includes information about individuals who have been suspended, expelled, disciplined, or denied access to or by a self-regulatory organization (SRO), including, but not limited to NFA, or who have been subject to a CFTC civil or administrative action.

CATEGORIES OF RECORDS IN THE SYSTEM: This system includes information pertaining to the fitness of the individuals or firms to engage in business subject to the Commission's jurisdiction, including but not limited to registration forms, schedules and supplements, fingerprint cards which are required for certain individual registrants as provided under CFTC rules, correspondence relating to registration, fitness investigations, and reports and memoranda reflecting information developed from various sources. This system includes investigatory material compiled for law enforcement purposes whose disclosure the Commission staff has determined could compromise Commission investigations, or would reveal the identity of a source who furnished information to the Commission under an express promise that the identity of the source would be held in confidence. The system also includes information pertaining to disciplinary or other adverse action taken by an SRO or the CFTC, including the name of the person against whom such action was taken, the action taken, and the reasons. Information submitted by certain individuals or firms to enable NFA and/or CFTC supervision and oversight of activities governed by the Commodity Exchange Act, such as financial statements, reports and notice filings; disclosure documents; and submissions by swap dealers and major swap participants pursuant to Commission Regulation 3.10(a)(1)(v)(A) and information developed by the NFA and/or CFTC related to such information. Additionally, this system includes information submitted by individuals

related to notices of exemption or claims for exemption from certain CFTC requirements and information developed by NFA and/or the CFTC related to the notice of exemption or claim for exemption.

RECORD SOURCE CATEGORIES: Sources of the information include the individual or firm on whom the record is maintained; the individual's employer; individuals filing reparations complaints or answers; Federal, state and local regulatory and law enforcement agencies; commodities and securities exchanges; NFA; Financial Industry Regulatory Authority (FINRA); foreign futures and securities authorities and INTERPOL; self-regulatory organizations notifying the Commission of disciplinary or other adverse actions taken; and other miscellaneous sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES: NFA may disclose information contained in those portions of this system of records maintained by NFA, but any such disclosure must be made in accordance with NFA rules that have been approved by the Commission or permitted to become effective without Commission approval. Disclosures must be made under circumstances authorized by the Commission as consistent with the Commission's regulations and routine uses.

NFA generally makes available to the public on NFA website(s), including the Background Affiliation Status Information Center (BASIC), firm directories, registration forms, business addresses, telephone numbers, registration categories, biographical supplements (except for any confidential information on supplementary attachments to the forms), effective dates of registration, registration status, and disciplinary action taken concerning futures commission merchants, introducing brokers, commodity pool

operators, commodity trading advisors, swap dealers, major swap participants and retail foreign exchange dealers and their associated persons. NFA also will release records or portions of records to any member of the public if such records or portions are “public” or “publicly available” under Commission Regulations 1.10(g) or 145.0. For information not made available to the public as explained above, NFA may disclose information contained in those portions of this system of records maintained by NFA.

These records and information in these records may be used:

(a) To disclose to any person with whom an applicant or registrant is or plans to be associated as an associated person or affiliated as a principal or with whom an individual is or plans on being associated as a swap associated person;

(b) To disclose to any futures commission merchant or retail foreign exchange dealer with whom an introducing broker, whether an applicant or registrant, has or plans to enter into a guarantee agreement under CFTC Regulation 1.10;

(c) To disclose to boards of trade designated as contract markets or to any other futures associations registered with the Commission to assist those organizations in carrying out their responsibilities under the Act;

(d) To disclose pursuant to an order of a court of competent jurisdiction; except that, subpoenas and summonses covering non-public portions of registration records and copies of the non- public records shall be promptly forwarded to the Commission to enable the Commission to consult with NFA on how to proceed;

(e) To disclose to the public certain background information about firms and industry professionals to allow them to understand NFA membership, CFTC registration status, and relevant background information;

(f) To disclose 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*;

(g) To disclose to Federal, State, local, territorial, Tribal, or foreign agencies for use in meeting their statutory or regulatory requirements;

(h) To disclose to any “registered entity,” as defined in section 1a of the Commodity Exchange Act, 7 U.S.C. 1, *et seq.* (“the Act”), to the extent disclosure is authorized and will assist the registered entity in carrying out its responsibilities under the Act. Information may also be disclosed to any registered futures association registered under section 17 of the Act 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.*;

(i) To disclose 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;

(j) To disclose to Congress upon its request, acting within the scope of its jurisdiction, pursuant to the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*, and the rules and regulations promulgated thereunder;

(k) To disclose to appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that there has been a breach of the system of

records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; or

(l) To disclose to another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Paper records are stored in file folders and binders. Electronic records, including computer files, are stored on the Commission's network, NFA databases or applications, NFA website, and other secure electronic media as needed.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Information covered by this system of records notice may be retrieved by the name of the individual or firm, an NFA identification number, docket number, or by cross-indexing an individual's file to the name of the firm with which the individual is associated or affiliated (*e.g.*, the name of the futures commission merchant).

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF

RECORDS: The records will be maintained in accordance with records disposition schedules approved by the National Archives and Records Administration. The schedules are available at <http://www.cftc.gov>.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Records are protected from unauthorized access and improper use through administrative, technical, and physical security measures. Administrative safeguards include written guidelines on handling personal information including agency-wide procedures for safeguarding personally identifiable information. In addition, all NFA and CFTC staff are required to take annual privacy and security training. Technical security measures within NFA and CFTC include restrictions on computer access to authorized individuals who have a legitimate need to know the information; required use of strong passwords that are frequently changed; multi-factor authentication for remote access and access to many network components; use of encryption for certain data types and transfers; firewalls and intrusion detection applications; and regular review of security procedures and best practices to enhance security. Physical safeguards include restrictions on building access to authorized individuals, 24-hour security guard service, and maintenance of records in lockable offices and filing cabinets.

RECORD ACCESS PROCEDURES: 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 should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act access request.

Individuals may also request registration information by telephone directly from the NFA information center at (800) 621-3570 or (312) 781-1410. Inquiries can also be made to NFA by fax at (312) 781-1459 or via the Internet at *information@nfa.futures.org*. NFA will query the system about current registration status and registration and disciplinary history, and will provide instructions on how to make written requests for copies of records.

CONTESTING RECORD PROCEDURES: Individuals contesting the content of records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. See 17 CFR 146.8 for full details on what to include in a Privacy Act amendment request.

NOTIFICATION PROCEDURES: Individuals seeking notification of any records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act notification request. Individuals may also request registration information by telephone directly from the NFA information center at (800) 621-3570 or (312) 781-1410. Inquiries can also be made to NFA by fax at (312) 781-1459 or via the Internet at *information@nfa.futures.org*. NFA will query the system about current registration status and registration and disciplinary history, and will provide instructions on how to make written requests for copies of records. The Internet may be used to obtain information on current registration status and futures-related regulatory actions at <http://www.nfa.futures.org>.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: The records in this system that refer, relate to or are from third-party sources related to fitness or other investigations of applicants for registration or registrants are 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 CFR 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.

HISTORY: A previous version of this SORN was published in the *Federal Register* on September 30th, 2014 at 79 FR 58752.

Issued in Washington, DC, on April 22, 2019, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

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