

§ 146.12

17 CFR Ch. I (4-1-11 Edition)

(4) Each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(5) The policies and practices of the Commission regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the Commission official who is responsible for the system of records;

(7) The procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(8) The procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its contents; and

(9) The categories of sources of records in the system.

(b) Copies of the notices as printed in the FEDERAL REGISTER will be available in each office of the Commission. Locations of Commission offices are listed in §145.6. Mail requests shall be directed to the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. The first copy will be furnished free of charge. A charge will be made for each additional copy.

[41 FR 3212, Jan. 21, 1976, as amended at 41 FR 28261, July 9, 1976; 45 FR 26955, Apr. 22, 1980; 60 FR 49336, Sept. 25, 1995; 65 FR 53560, Sept. 5, 2000]

§ 146.12 Exemptions.

(a) Investigatory materials compiled for law enforcement purposes are exempt from portions of the Privacy Act of 1974 and of these rules as set forth in paragraph (c) of this section, on the basis and to the extent that individual access to these files could impair the effectiveness and orderly conduct of the Commission's regulatory and enforcement program. Materials exempted under this paragraph are contained in the system of records entitled "Exempted Investigatory Records" and/or in the system of records entitled "Exempted Closed Commission Meetings." Notwithstanding the foregoing, however, no record which has served as a

basis for denying an individual a right, privilege, or benefit to which he would otherwise be eligible, shall be maintained in this system, unless the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence. For records of this type, if practicable, material identifying the confidential source shall be extracted or summarized in a manner which protects the source and the summary or extract shall be maintained in a comparable nonexempted system of records.

(b) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for employment with the Commission are exempt from portions of the Privacy Act of 1974 and of these rules as set forth in paragraph (c) of this section, to the extent that it identifies a confidential source. This is done in order to encourage persons from whom information is sought to provide information to the Commission which, absent assurances of confidentiality, they would be unwilling to give. However, if practicable, material identifying a confidential source shall be extracted or summarized in a manner which protects the source and the summary or extract shall be maintained in a non-exempt system containing the same category of record. Materials exempted under this paragraph are included in the system of records entitled "Exempted Employee Background Investigation Material" and/or in the system of records entitled "Exempted Closed Commission Meetings."

(c) The systems set forth in paragraphs (a) and (b) of this section are hereby exempted from the provisions of sections 552a(c), (3)(d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of title 5 of the U.S. Code (the Privacy Act of 1974), and are also exempted from the following sections of these rules: §146.3 (requests for information and for access); §146.5 (access to records); §146.6(d) (accounting of disclosures to be made available

to the individual); §146.11(a) (7), (8), (9) (content of the system notice); and §146.7(a) (relevancy of records).

[41 FR 3212, Jan. 21, 1976, as amended at 53 FR 35198, Sept. 12, 1988]

§ 146.13 Inspector General exemptions.

(a) Pursuant to section (j) of the Privacy Act of 1974, the Commission has deemed it necessary to adopt the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to, and limited by 5 U.S.C. 552a(j)(2), the system of records maintained by the Office of the Inspector General of the Commission entitled "Office of the Inspector General Investigative Files," shall be exempted from the provisions of 5 U.S.C. 552a (except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i)) and from 17 CFR 146.3, 146.4, 146.5, 146.6 (b), (d) and (e), 146.7 (a), (c) and (d), 146.8, 146.9, 146.10, 146.11(a) (7), (8) and (9), insofar as the system contains information pertaining to criminal law enforcement investigations.

(2) [Reserved]

(b) Pursuant to section (k) of the Privacy Act of 1974, the Commission has deemed it necessary to adopt the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to, and limited by 5 U.S.C. 552(k)(2), the system of records maintained by the Office of the Inspector General of the Commission entitled "Office of the Inspector General Investigative Files," shall be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) and from 17 CFR 146.3, 146.4, 146.5, 146.6(d), 146.7(a), 146.8, 146.9, 146.11(a) (7), (8) and (9), insofar as it contains investigatory materials compiled for law enforcement purposes.

(2) [Reserved]

[57 FR 4364, Feb. 5, 1992]

APPENDIX A TO PART 146—FEES FOR COPIES OF RECORDS REQUESTED UNDER THE PRIVACY ACT OF 1974

a. The following schedule of fees shall apply to copies of records requested pursuant to the Privacy Act of 1974, 5 U.S.C. 552a and §146.5(f).

(1) For requests for copies of documents, the charge will be 15 cents per page.

(2) For materials other than paper records, including computer and cassette tapes, the

direct cost of the materials and, if required, time spent by clerical personnel copying the materials shall be charged. Persons making the request shall be notified of the amount of the charge and shall give specific approval before the request is processed.

(3) For certifying that requested records are true copies, the fee will be \$3.00 per certification in addition to other fees, if any.

(4) Upon request, records will be mailed by means of an overnight/express service at the fee of \$10.00 per unit mailed.

(5) The Commission may, upon application by the individual, furnish any records without charge or at a reduced rate, if it determines that such waiver or reduction of fee is in the public interest.

b. Requests for copies of documents shall be addressed to FOI, Privacy and Sunshine Acts compliance staff, Office of Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

c. Payment should be made by check or money order payable to the Commodity Futures Trading Commission.

d. Advance payment of all or part of the fee may be required at the discretion of the Commission. Generally, advance payment will not be required where the anticipated fee is less than \$25.

(7 U.S.C. 4a(j) and 16a as amended by Pub. L. 97-444, 96 Stat. 2294 (1983) and 5 U.S.C. 552. 662a and 552b)

[41 FR 3212, Jan. 21, 1976, as amended at 45 FR 26955, Apr. 22, 1980; 48 FR 46011, Oct. 11, 1983; 48 FR 55280, Dec. 12, 1983; 49 FR 12684, Mar. 30, 1984; 60 FR 49336, Sept. 25, 1995]

PART 147—OPEN COMMISSION MEETINGS

Sec.

147.1 General policy considerations, purpose and scope of rules relating to open Commission meetings.

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147.9 Requests for copies of transcripts, recordings or minutes of closed meetings.

147.10 Interpretation of this part with other provisions.