

management, including current research on market squid, Pacific sardine, and the California Current Ecosystem, planning the 2009 review of Pacific sardine allocation, and implementation of the reauthorized Magnuson-Stevens Fishery Conservation and Management Act. No management actions will be decided by the CPSMT, the SSC CPS Subcommittee, or the CPSAS.

Although non-emergency issues not contained in the meeting agendas may be discussed, those issues may not be the subject of formal action during these meetings. Advisory body action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820-2280 at least 5 days prior to the meeting date.

Dated: September 8, 2008.

### Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.  
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## COMMODITY FUTURES TRADING COMMISSION

### Joint Audit Committee Operating Agreement

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Request for comment.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") is publishing for public comment an agreement submitted by the Joint Audit Committee ("JAC") for approval pursuant to Commission Regulation 1.52.<sup>1</sup> The JAC is a voluntary, cooperative organization comprised of representatives of the financial surveillance staff of designated contract markets ("DCMs") and the National Futures Association ("NFA") and was formed for the purpose of coordinating the monitoring and examination of common futures

commission merchant ("FCM") members of such entities. The agreement governs the operation of the JAC and the manner by which the JAC will coordinate and cooperate in examining and monitoring FCMs for compliance with Commission and self-regulatory organization ("SRO") minimum financial and related reporting requirements. The JAC is submitting the agreement to replace the current operating agreement, which has been in effect since 1984.

**DATE:** Comments must be received on or before October 14, 2008.

**ADDRESSES:** Interested persons should submit their views and comments to David Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to (202) 418-5521, or by electronic mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Joint Audit Committee". This document also will be available for comment at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Smith, Deputy Director and Chief Accountant, or Jennifer Bauer, Special Counsel, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, [jbauer@cftc.gov](mailto:jbauer@cftc.gov), Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone (202) 418-5472.

### SUPPLEMENTARY INFORMATION:

The Commodity Exchange Act<sup>2</sup> ("Act") authorizes the Commission to adopt regulations imposing minimum financial and related reporting requirements upon FCMs. In this regard, Section 4f(b) of the Act authorizes the Commission to adopt regulations imposing minimum capital requirements upon FCMs. In addition, Section 4d of the Act requires FCMs to segregate from their own assets all money, securities, and property deposited by customers to margin, guarantee, or secure futures positions, and Section 4f(a)(1) of the Act authorizes the Commission to establish financial reporting requirements upon FCMs. Consistent with this authority, the Commission has adopted regulations addressing minimum financial and related reporting requirements for FCMs.<sup>3</sup>

<sup>2</sup> 7 U.S.C. 1 *et seq.*

<sup>3</sup> For example, see Commission Regulation 1.17 for the minimum financial requirements for FCMs and introducing brokers ("IBs") adopted by the Commission, and Commission Regulations 1.10 and 1.12 for monthly and annual financial reporting requirements and notice requirements, respectively.

The Act further imposes obligations upon DCMs and NFA to monitor FCMs for compliance with the minimum financial and related reporting requirements. Specifically, DCM Core Principle 11 requires a board of trade to establish and to enforce rules addressing the financial integrity of FCMs.<sup>4</sup> In addition, Section 17(p)(2) of the Act requires NFA to establish minimum capital, segregation, and other financial requirements for member FCMs and to implement a program to audit and to enforce compliance with such requirements. Minimum standards for an effective financial surveillance program are further set forth in interpretations issued by the Commission's Division of Trading and Markets.<sup>5</sup>

In 1984, a number of futures exchanges (now, DCMs) and NFA (collectively referred to as SROs) entered into a Joint Audit Agreement ("1984 Agreement"). The 1984 Agreement generally provides that an FCM that is a member of more than one SRO would have a single designated SRO ("DSRO"). The DSRO is primarily responsible for conducting periodic financial examinations, the results of which are shared with the other SROs of which the FCM is a member. The DSRO process is intended to enhance the effectiveness and efficiency of the SROs' financial surveillance function by avoiding unnecessary duplicative financial examinations of FCMs that are members of more than one SRO. This regulatory approach was endorsed by the Commission when it adopted Regulation 1.52, which permits DSROs to enter into cooperative agreements sharing financial surveillance oversight responsibilities for FCMs that are members of more than one SRO, provided that the oversight agreement is approved by the Commission after public notice and comment.<sup>6</sup>

<sup>4</sup> 7 U.S.C. 7(d)(11).

<sup>5</sup> See Division of Trading and Markets Financial and Segregation Interpretation No. 4-1—Advisory Interpretation for Self-Regulatory Organization Surveillance over Members' Compliance with Minimum Financial, Segregation, Reporting, and Related Recordkeeping Requirements, *Comm. Fut. L. Rep. (CCH)* ¶ 7114A (Jul. 29, 1985); and Division of Trading and Markets Financial and Segregation Interpretation No. 4-2—Risk-Based Auditing, *Comm. Fut. L. Rep. (CCH)* ¶ 7114E (August 20, 1999).

<sup>6</sup> Regulation 1.52(g) states:

"After appropriate notice and opportunity for comment, the Commission may, by written notice, approve such a plan, or any part of the plan, if it finds that the plan, or any part of it: (1) Is necessary or appropriate to serve the public interest; (2) Is for the protection and in the interest of customers; (3) Reduces multiple monitoring and auditing for compliance with the minimum financial rules of the [SROs] submitting the plan for any [FCM or IB that] is a member of more than one [SRO]; (4) Reduces multiple reporting of the financial

<sup>1</sup> Commission regulations may be found at 17 CFR Ch. 1 (2008).

In 2004, the SROs, through the JAC, submitted proposed amendments to the 1984 agreement to the Commission for approval. The Commission published the proposed amendments for public comment on April 12, 2004. The proposal, however, became linked to the Commission's study on the SRO process, which encompassed the topic of the general governance of SROs and the role of industry self-regulation.<sup>7</sup> The Commission completed its SRO governance study in 2007 with the adoption of a regulation providing acceptable practices under core principles for the composition of boards of directors of SROs.<sup>8</sup> However, the effectiveness of this regulation has been stayed,<sup>9</sup> and no final action was taken by the Commission with respect to the amendments proposed in 2004. The 1984 Agreement has remained in effect, and the JAC has continued its role of enabling the cooperative examination of member firms in the intervening time period.

The Commission has now received from the JAC a revised series of proposed amendments to the 1984 Agreement ("Proposed Agreement") for which approval has been requested. In accordance with Regulation 1.52(g), the Commission is publishing this notice to request public comment on the Proposed Agreement before taking action to approve or to deny approval of the Proposed Agreement.

The Proposed Agreement includes provisions addressing JAC governance procedures and voting rights, membership criteria, information sharing arrangements, and DSRO designation criteria. The Proposed Agreement differs in several material respects from the revisions published for comment in 2004, and many comments received in 2004 were related to provisions which are no longer applicable in the Proposed Agreement. In addition, in the intervening period of four years commenters may have changed their positions from those previously communicated. Therefore,

information necessitated by such minimum financial and related reporting requirements by any [FCM or IB that] is a member of more than one [SRO]; (5) Fosters cooperation and coordination among the contract markets; and (6) Does not hinder the development of a registered futures association under [S]ection 17 of the Act."

<sup>7</sup> One of the comments received with respect to the proposed amendments published in 2004 was from the Futures Industry Association ("FIA"), dated June 18, 2004, which stated that the FIA's comments may change based on the results of the Commission's SRO study and that any action taken with respect to the proposed amendments to the JAC agreement should be deferred until the completion of the SRO study.

<sup>8</sup> 72 FR 6936 (February 14, 2007).

<sup>9</sup> See 72 FR 65658 (November 23, 2007).

the Commission will not consider the comments submitted in response to the 2004 request for comments in assessing whether the Proposed Agreement satisfies the requirements of Regulation 1.52(g). Accordingly, any person wishing to comment on the Proposed Agreement should submit a comment letter.

The Commission invites comment on the Proposed Agreement, particularly with respect to the ability of the DSRO system to continue to serve the public interest, reduce duplicative reporting and examination burdens on FCMs, strengthen customer protections, and foster cooperation and coordination among DCMs.

The 1984 Agreement, Commission letter approving the 1984 Agreement, and the Proposed Agreement are available on the Commission's Web site at <http://www.cftc.gov> upon the issuance of this notice by the Commission. Copies of these documents also may be obtained from the Office of the Secretariat, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

Issued in Washington, DC on September 8, 2008, by the Commission.

**David Stawick,**

*Secretary of the Commission.*

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## COMMODITY FUTURES TRADING COMMISSION

### Privacy Act of 1974; System of Records

**AGENCY:** Commodity Futures Trading Commission (CFTC).

**ACTION:** Proposed routine use; request for public comment.

**SUMMARY:** The CFTC proposes to adopt a new routine use that would permit disclosure of CFTC records governed by the Privacy Act when reasonably necessary to respond and prevent, minimize, or remedy harm that may result from an agency data breach or compromise.

**DATES:** The deadline for public comments is October 14, 2008. Comments received after that date will be considered at the CFTC's discretion.

**ADDRESSES:** Interested parties are invited to submit written comments. Reference should be made to "Privacy Act of 1974; System of Records." Comments should be mailed or delivered to: Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, Attention:

Office of the Secretariat. Comments may be sent by facsimile to 202.418.5521, or by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov).

**FOR FURTHER INFORMATION CONTACT:** Gail Scott, Attorney, CFTC, Office of General Counsel, 1155 21st Street, NW., Washington, DC 20581, 202-418-5139, [gscott@cftc.gov](mailto:gscott@cftc.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and as recommended in the Office of Management and Budget Memorandum M-07-16 (Attachment 2), this document provides public notice that the CFTC is proposing to adopt a new "routine use" that will apply to all CFTC records systems covered by the Privacy Act of 1974. The Act applies to agency systems of records about individuals that the agency maintains and retrieves by name or other personal identifier, such as its personnel and payroll systems and certain other CFTC records systems. A list of the agency's current Privacy Act systems of records can be viewed on the CFTC's Web site at: <http://www.cftc.gov/lawandregulation/federalregister/systemsofrecords/index.htm>. The new routine use would be added to the section General Statement of Routine Uses, which describes routine uses that apply globally to all CFTC Privacy Act records systems.

This new routine use is needed in order to allow for disclosure of records to appropriate persons and entities for purposes of response and remedial efforts in the event of a breach of data contained in the protected systems. This routine use will facilitate an effective response to a confirmed or suspected breach by allowing for disclosure to individuals affected by the breach, in cases, if any, where such disclosure is not otherwise authorized under the Act. This routine use will also authorize disclosures to others who are in a position to assist in response efforts, either by assisting in notification to affected individuals or otherwise playing a role in preventing, minimizing, or remedying harms from the breach.

The Privacy Act authorizes the agency to adopt routine uses that are consistent with the purpose for which information is collected and subject to that Act. 5 U.S.C. 552a(b)(3); see also 5 U.S.C. 552a(a)(7). The CFTC believes that it is consistent with the collection of information pertaining to such individuals to disclose Privacy Act records when, in doing so, it will help prevent, minimize or remedy a data breach or compromise that may affect such individuals. By contrast, the CFTC believes that failure to take reasonable