

PART 1600—ORGANIZATION AND FUNCTIONS OF THE OFFICE OF FINANCIAL RESEARCH

AUTHORITY: 5 U.S.C. 301, 7301, 31 U.S.C. 321, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) (Pub. L. 111-203); E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306.

SOURCE: 76 FR 60708, Sept. 30, 2011, unless otherwise noted.

§ 1600.1 Standards of ethical conduct.

This section applies to the employees of the Office of Financial Research and is in addition to 5 CFR 3101.101-104, and 31 CFR part 0:

(a) *Definitions*—For purposes of this subpart:

(1) “Business confidential information” shall include trade secret or other formula, practice, process, design, instrument, pattern, or compilation of information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors or customers. This shall include non-public position and transaction data, as well as data provided to supervisors or regulators that is unpublished.

(2) “Position data” is defined as:

(i) Data on financial assets or liabilities held on the balance sheet of a financial company, where positions are created or changed by the execution of a financial transaction; and

(ii) Includes information that identifies counterparties, the valuation by the financial company of the position, and information that makes possible an independent valuation of the position.

(3) “Transaction data” is defined as the structure and legal description of a financial contract, with sufficient detail to describe the rights and obligations between counterparties and make possible an independent valuation.

(4) “Micro-level data” is defined as information specific to an individual transaction or position.

(5) “Masked data” is defined as data that has been altered to prevent attribution to a particular financial company.

(6) “Financial company” has the same meaning given to such term in

title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 5301 *et seq.* (2010), and includes an insured depository institution and an insurance company.

(b) *One-year post-employment restriction.* (1) A current or former employee of the Office of Financial Research who has had access to the transaction or position data or business confidential information maintained by the Data Center about financial entities required to report to the Office may not, within one year after last having had access in the course of official duties to such transaction or position data or business confidential information, be employed by or provide advice or consulting services to a financial company, regardless of whether that financial company is required to report to the Office.

(2) A current or former employee of the Office of Financial Research who has had limited access to the transaction or position data or business confidential information maintained by the Data Center about financial entities required to report to the Office may request a written waiver pursuant to paragraph (c) of this section from the Designated Agency Ethics Official to be employed by or provide advice or consulting services to a financial company, provided that the issuance of the waiver would not compromise any data or business confidential information.

(c) *Waivers*—The post-employment restrictions set forth in section 152(g) of the Dodd-Frank Wall Street Reform and Consumer Protection Act may be waived in whole or in part for an employee with limited access to the transaction or position data or business confidential information maintained by the Data Center if—

(1) The Designated Agency Ethics Official, in consultation with the Director of the Office of Financial Research or the Department’s General Counsel in instances where consultation with the Director poses a conflict or the Director’s position is vacant, determines in writing that such waiver is unlikely to compromise any financial company’s business confidential information, unfairly advantage or disadvantage any financial company, or affect

the integrity or effectiveness of the Office of Financial Research.

(2) Relevant factors to be considered by the Designated Agency Ethics Official and the Director or General Counsel include—

(i) The nature and importance of the employee's position and the degree to which the employee had access to non-public or business confidential data for the purpose of analysis, standardization, or performing applied research or essential long-term research;

(ii) Whether the information to which the employee had access revealed positions or transactions of an individual financial company;

(iii) Whether the data, especially position data, remains sensitive considering changing circumstances or the passage of time;

(iv) Whether the employee had access to micro-level data, as compared to aggregated information;

(v) If the employee had access to micro-level data, whether it was sufficiently masked or coded to protect the identity of the provider or the subject financial company;

(vi) Whether the information to which the employee had access would provide a financial company employer with a competitive commercial advantage;

(vii) Whether the financial company employer has made a satisfactory representation that it has adopted screening measures which will effectively prevent a potential employee from sharing any transaction or position data or business confidential information acquired at the Office of Financial Research one year prior to accepting employment with the company;

(viii) Whether granting the waiver would affect the willingness of a financial company to continue to provide transaction or position data or business confidential information to the Office; and

(ix) Whether the proposed employment would create an appearance of impropriety or would otherwise adversely affect the interests of the government or compromise the integrity of the office.

(d) The following examples are illustrative of how the OFR post-employ-

ment prohibitions would apply under certain circumstances:

(1) *Example 1.* (i) Fact pattern: OFR employs a business data manager and such employee has no access to the transaction or position data maintained by the Data Center or other business confidential information about financial entities required to report to OFR.

(ii) Designated Agency Ethics Official's Determination: Upon termination of their employment by OFR, such employee would not be prohibited from being employed by or providing advice or consulting services to a financial company, regardless of whether that financial company is required to report to the Office.

(2) *Example 2.* (i) Fact pattern: OFR employs a data analyst and such employee has access to transaction or position data across all sectors maintained by the Data Center or other business confidential information about specific financial entities required to report to OFR.

(ii) Designated Agency Ethics Official's Determination: Upon termination of their employment by OFR, such employee would be prohibited, for a period of one year immediately after leaving OFR, from being employed by or providing advice or consulting services to a financial company, regardless of whether that financial company is required to report to the Office.

(3) *Example 3.* (i) Fact pattern: OFR employs a data analyst and such employee has access to transaction or position data across all sectors maintained by the Data Center or other business confidential information about specific financial entities required to report to OFR. Employee last had access to such data six months before termination of her employment at OFR.

(ii) Designated Agency Ethics Official's Determination: Upon termination of employment by OFR, such employee would be prohibited, for a period of six months immediately after leaving OFR, from being employed by or providing advice or consulting services to a financial company, regardless of whether that financial company is required to report to the Office.

(4) *Example 4.* (i) Fact pattern: OFR employs a researcher and such employee has access only to “aggregated” or “masked” transaction or position data maintained by the Data Center or other business confidential information about financial entities required to report to OFR.

(ii) Designated Agency Ethics Official’s Determination: Upon termination of their employment by OFR, such employee would not be prohibited from being employed by or providing advice or consulting services to a financial company, regardless of whether that financial company is required to report to the Office.

(5) *Example 5.* (i) Fact pattern: OFR employs a data analyst and such employee has access to transaction or position data maintained by the Data Center or other business confidential information *relating to a particular sector (i.e. banking)*.

(ii) Designated Agency Ethics Official’s Determination: Upon termination of employment by OFR, such employee would be prohibited, for a period of one year immediately after leaving OFR, from being employed by or providing advice or consulting services to a financial company *in that particular sector (i.e. banking)* where such employment or services involves employment or advice or consulting services, regardless of whether that financial company is required to report to the Office. Such employee would be granted a waiver to work in other designated sectors immediately after leaving OFR.

(6) *Example 6.* (i) Fact pattern: OFR employs a data analyst and such employee has access to business confidential information in an area where data, such as equity mutual fund holdings, changes frequently. Employee last had access to such data six months before termination of her employment at OFR and, because of portfolio turnover, there is no risk of compromising business confidential information.

(ii) Designated Agency Ethics Official’s Determination: Upon termination of their employment by OFR, such employee would not be prohibited from being employed by or providing advice or consulting services to a financial company, regardless of whether

that financial company is required to report to the Office.

(7) *Example 7.* (i) Fact pattern: OFR employs an information technology specialist and such employee has access only to “masked” transaction or position data maintained by the Data Center or other “masked” business confidential information about specific financial entities required to report to OFR.

(ii) Designated Agency Ethics Official’s Determination: Upon termination of their employment by OFR, such employee would not be prohibited from being employed by or providing advice or consulting services to a financial company, regardless of whether that financial company is required to report to the Office.

PARTS 1601–1609 [RESERVED]

PART 1610—REGULATORY DATA COLLECTIONS

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AUTHORITY: 12 U.S.C. 5343 and 5344.

SOURCE: 84 FR 4984, Feb. 20, 2019, unless otherwise noted.

Subpart A—Collections Generally

§ 1610.1 General authority.

The collections under this part are made pursuant to the authority contained in 12 U.S.C. 5343(a) and (c)(1) and 5344(b).

§ 1610.2 General definitions.

Council means the Financial Stability Oversight Council.

Legal Entity Identifier or LEI for an entity means the global legal entity identifier maintained for such entity by a utility accredited by the Global LEI Foundation or by a utility endorsed by the Regulatory Oversight