

definitive reply cannot be given within ten days, the request will be acknowledged and an explanation will be given of the status of the request.

(e) When an individual has requested access to records, available to him under these rules, he will either be notified in writing of where and when he may obtain access to the records requested or be given the name, address and telephone number of the member of the Commission staff with whom he should communicate to make further arrangements for access.

[41 FR 3212, Jan. 21, 1976, as amended at 41 FR 28260, July 9, 1976; 60 FR 49335, Sept. 25, 1995]

§ 146.4 Procedures for identifying the individual making the request.

When a request for information or for access to records has been made pursuant to § 146.3, before information is given or access is granted pursuant to § 146.5 of these rules the Commission shall require reasonable identification of the person making the request to insure that information is given and records are disclosed only to the proper person.

(a) An individual may establish his identity by:

(1) Submitting with his request for information or for access a photocopy of two pieces of identification bearing his name and signature, one of which shall bear his current home or business address; or

(2) Appearing at any office of the Commission (located at the addresses set forth in § 145.6 of these rules) during the regular working hours for that office and presenting either:

(i) One piece of identification containing a photograph and signature, such as a drivers license or passport or

(ii) Two pieces of identification bearing his name and signature, one of which shall bear his current home or business address; or

(3) Providing such other proof of identity as the Commission deems satisfactory in the circumstances of a particular request.

(b) If the Executive Director or other designated Commission official determines that the data in a requested record is so sensitive that unauthorized access could cause harm or embarrass-

ment to the person whose record is involved, or if the person making the request is unable to produce satisfactory evidence of identity under paragraph (a) of this section, the individual making the request may be required to submit a notarized statement attesting to his identity and that he is familiar with and understands the criminal penalties provided under section 1001 of title 18 of the U.S. Code for making false statements to a Government agency and under the Privacy Act, section 552a(i)(3) of title 5 of the U.S. Code, for obtaining records under false pretenses. Copies of these statutory provisions and forms for such notarized statements may be attained upon request from 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.

(c) The parent or guardian of a minor or a person judicially determined to be incompetent, in addition to establishing the identity of the person he represents as described in the previous paragraphs of this section, shall establish his own identity and his parentage or guardianship by furnishing a copy of a birth certificate showing parentage or a court order establishing the guardianship.

(d) Nothing in this section shall preclude the Commission from requiring additional identification before granting access to the records if there is reason to believe that the person making the request may not be the individual to whom the record pertains, or where the sensitivity of the data warrants it.

(e) The requirements of this section shall not apply if the records involved would be available to any person pursuant to the Commission's rules under the Freedom of Information Act as set forth in part 145 of this chapter.

[41 FR 3212, Jan. 21, 1976, as amended at 41 FR 28260, July 9, 1976; 60 FR 49335, Sept. 25, 1995]

§ 146.5 Disclosure of requested information to individuals; fee for copies of records.

(a) Any individual who has requested access to his record or to any information pertaining to him in the manner

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prescribed in §146.3, and has identified himself as prescribed in §146.4, shall be permitted to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, subject to fees for copying services set forth in appendix A to this part. Upon his request persons of his own choosing may accompany him, but the individual shall first furnish a written statement authorizing discussion of that individual's record in the accompany persons' presence.

(b) Access will generally be granted in the office of the Commission where the records are maintained during normal business hours, but for good cause shown the Commission may grant access at another office of the Commission or at different times for the convenience of the individual making the request.

(c) Where a document containing information about an individual also contains information not pertaining to him, the portion not pertaining to the individual shall not be disclosed to him except to the extent the information is available to any person under the Freedom of Information Act. If the records sought cannot be provided for review and copying in a meaningful form, the Commission shall provide to the individual a report of the information concerning the individual contained in the record or records which shall be complete and accurate in all material aspects.

(d) Where the disclosure involves medical records, the records may be provided only to a physician designated in writing by the individual.

(e) Requests for copies of documents may be directed to the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat, or to the member of the Commission's staff through whom arrangements for access were made.

(f) Fees for copies of records shall be charged as set forth in the schedule of fees contained in appendix A to this part. Copies of the schedule may be obtained upon request from 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.

Payment should be made by check or money order payable to the Commodity Futures Trading Commission. Advance payment of all or part of the fee may be required at the discretion of the Commission, but generally this will not be required for requests where the anticipated fee is less than \$25.

(g) Nothing in this section or in §146.3 shall:

(1) Require the disclosure of investigative records exempted under §146.12 of these rules;

(2) Allow an individual access to any information compiled in reasonable anticipation of a civil action, administrative proceeding or a criminal proceeding;

(3) Require the furnishing of information or records which cannot be retrieved by the name or other identifier of the individual making the request.

[41 FR 3212, Jan. 21, 1976, as amended at 41 FR 28261, July 9, 1976; 45 FR 26954, Apr. 22, 1980; 60 FR 49335, Sept. 25, 1995]

§ 146.6 Disclosure to third parties.

(a) The Commission shall not disclose to any agency or to any person by any means of communication a record pertaining to an individual which is contained in a system of records, except under the following circumstances:

(1) The individual to whom the record pertains has given his written consent to the disclosure;

(2) The disclosure is to officers and employees of the Commission who need it in the performance of their duties;

(3) Disclosure is required under the Freedom of Information Act (5 U.S.C. 552);

(4) Disclosure is for a routine use as defined in §146.2(i) and described in the system notice for that system of records;

(5) The disclosure is made to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity;

(6) The disclosure is made to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;