

§ 240.17Ad-7 Record retention.

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(f) Subject to the conditions set forth in this section, the records required to be maintained pursuant to § 240.17Ad-6 may be retained using electronic or micrographic media and may be preserved in those formats for the time required by § 240.17Ad-7. Records stored electronically or micrographically in accordance with this paragraph may serve as a substitute for the hard copy records required to be maintained pursuant to § 240.17Ad-6.

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By the Commission.

Dated: June 16, 2003.

Jill M. Peterson,

Assistant Secretary.

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DEPARTMENT OF THE TREASURY**Office of the Secretary of the Treasury****Fiscal Service****31 CFR Parts 1 and 323****Privacy Act of 1974; Proposed Implementation**

AGENCY: Bureau of the Public Debt, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: With the concurrence of the Department of the Treasury (Department), the Bureau of the Public Debt (Public Debt) issues a proposed rulemaking to amend its regulations to exempt a system of records from certain provisions of the Privacy Act. Lastly, we are amending regulations to clarify when personal privacy interests may be protected upon the death of a securities holder.

DATES: Comments must be received no later than July 21, 2003.

ADDRESSES: Send any comments to the Disclosure Officer, Administrative Resource Center, Bureau of the Public Debt, Department of the Treasury, 200 Third Street, Room 211, Parkersburg, WV 26101-5312. Copies of all written comments will be available for public inspection and copying at the Department of the Treasury Library, Room 1428, Main Treasury Building, Washington, DC 20220. Before visiting the library, you must call 202-622-0990 for an appointment. Also, you can download comments at the following World Wide Web address: "<http://www.publicdebt.treas.gov>".

FOR FURTHER INFORMATION CONTACT: For information about Public Debt's anti-money laundering and fraud suppression program, contact the Fraud Inquiry Line at (304) 480-8555. The phone line is administered by the Office of the Chief Counsel, Bureau of the Public Debt. For information about this document, contact the Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480-8692.

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974, 5 U.S.C. 552a, as amended, a Federal agency is required, among other things, to: (1) Maintain only information about an individual that is relevant and necessary to accomplish an authorized purpose; (2) Notify an individual whether information about him or her is maintained in a system of records; (3) Provide an individual with access to the records containing information about him or her, including an accounting of disclosures made of that information; (4) Permit an individual to request amendment of records about him or her; and (5) Describe in system notices the sources of information maintained about individuals and the procedures under which notice, access and amendment rights may be exercised. Under certain circumstances, however, the head of a Federal agency may issue rules to exempt a system of records.

Public Debt is publishing separately in the **Federal Register** a notice establishing a new system of records, Treasury/BPD.009—U.S. Treasury Securities Fraud Information System. In that regard, Public Debt proposes to exempt the new system from certain Privacy Act requirements. The head of an agency may promulgate rules to exempt a system of records from certain provisions under 5 U.S.C. 552a(k)(2) if the system of records is "investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section."

Accordingly, pursuant to the authority contained in section 31 CFR 1.23(c)(2), Public Debt proposes to exempt the system from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

This system will be exempt from 5 U.S.C. 552a(c)(3) (Accounting of certain disclosures available to the individual), (d)(1)–(4) (Access to records), (e)(1) (Maintenance of information to accomplish purposes authorized by statute or executive order only), (e)(4)(G) (Publication of procedures for notification), (e)(4)(H) (Publication of procedures for access and contest), (e)(4)(I) (Publication of sources of

records), and (f) (Rules for notification, access and contest) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) as material compiled for law enforcement purposes.

The reasons for exemptions under 5 U.S.C. 552a(k)(2) are as follows:

(1) 5 U.S.C. 552a(c)(3) requires an agency to make accountings of disclosures of a record available to the individual named in the record upon his or her request. The accountings must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient. Application of this provision would impair the ability of Public Debt and of law enforcement agencies to make effective use of information maintained by Public Debt. Access to such knowledge would impair the ability of Public Debt and law enforcement to carry out their mission, since individuals could:

- (a) Take steps to avoid detection;
- (b) Inform associates that an investigation is in process;
- (c) Learn the nature of the investigation;
- (d) Learn whether they are only suspects or identified as law violators;
- (e) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records; or
- (f) Destroy evidence needed to prove the violation.

(2)(a) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (3) and (5) grant individuals access to records pertaining to them. The application of these provisions to the system of records would compromise Public Debt's ability to utilize and provide useful tactical and strategic information to law enforcement agencies.

(b) Permitting access to records contained in the system of records would provide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension by:

- (i) Discovering the facts that would form the basis for their detection or apprehension;
- (ii) Enabling them to destroy or alter evidence of illegal conduct that would form the basis for their detection or apprehension;
- (iii) Using knowledge that

investigators had reason to believe that a violation of law was about to be committed, to delay the commission of the violation or commit it at a location that might not be under surveillance;

(c) Permitting access to either on-going or closed investigative files would also reveal investigative techniques and