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Any action the Secretary of Defense or his designee may take in these respects shall be final. In the event of a postponement, known bidders will be advised thereof and their bids returned unopened.

§ 274.9 Delegation of authority to the Secretary of the Treasury.

There is hereby delegated to the Secretary or Acting Secretary of the Treasury the authority, in the name of and title of the Secretary of the Treasury, to invite bids under this memorandum, to issue, modify and revoke public notices, notices, and announcements concerning such bids, to prescribe additional terms and conditions with respect thereto, consistent with this memorandum, to receive, return, open, reject, and accept bids, and to take such other actions as may be necessary and proper to execute this delegation of authority to implement this memorandum, excluding, however, the issuance of guaranties under § 274.4.

§ 274.10 Reservations.

The Secretary of Defense reserves the right, at any time, or from time to time, to amend, repeal, supplement, revise or withdraw all or any of the provisions of this memorandum.

PART 275—OBTAINING INFORMATION FROM FINANCIAL INSTITUTIONS: RIGHTS TO FINANCIAL PRIVACY ACT OF 1978

Sec.

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ENCLOSURE 5—OBTAINING ACCESS TO FINANCIAL RECORDS OVERSEAS

AUTHORITY: 92 Stat. 3697 et seq. (12 U.S.C. 3401, et seq.)

SOURCE: 45 FR 17576, Mar. 19, 1980, unless otherwise noted. Redesignated at 56 FR 57984, Nov. 15, 1991.

§ 275.1 Purpose.

This part implements Title 12, U.S.C. section 3401, et seq., Pub. L. 95–630, ''Right to Financial Privacy Act of 1978,'' and prescribes the procedures for the Department of Defense to use to gain access to financial records maintained by financial institutions.

§ 275.2 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Defense Investigative Service, and the National Security Agency (hereafter referred to as the ''DoD Components'').

(b) Its provisions apply only to financial records maintained by financial institutions as defined in § 275.6(a).

[45 FR 17576, Mar. 19, 1980. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

§ 275.3 Policy.

(a) It is the policy of the Department of Defense when obtaining financial records from a financial institution to seek the consent of the customer to whom the record pertains, unless doing so compromises or harmfully delays a legitimate law enforcement inquiry. If the person declines to consent to disclosure, the alternative means of obtaining the records authorized by this part shall be utilized.

(b) The provisions of 12 U.S.C. 3401 et seq. do not govern obtaining access to financial records maintained by military banking contractors located outside of the United States, the District of Columbia, Guam, American Samoa, or the Virgin Islands. The procedures outlined in enclosure 5 may be followed

in obtaining financial information from these facilities.

[45 FR 17576, Mar. 19, 1980, as amended at 46 FR 29706, June 3, 1981]

§275.4 Information requirements.

The report required by §275.14 of this part is assigned Report Control Symbol DD–COMP(A)1538.

[45 FR 17576, Mar. 19, 1980. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

§275.5 Responsibilities.

(a) *Heads* of affected *DoD Components* shall:

(1) Follow the procedures outlined in this part when seeking access to financial records.

(2) Establish procedures for implementing this part within the Component.

(3) Established procedures to ensure that the report required by §275.14 is forwarded to the Defense Privacy Board, Office of the Deputy Assistant Secretary of Defense (Administration).

(b) The *Deputy Assistant Secretary of Defense (Administration),* or designee, shall:

(1) Prepare a consolidated DoD annual report required by 12 U.S.C. 3421(b) and §275.14.

(2) Provide policy guidance to DoD Components to implement this part.

[45 FR 17576, Mar. 19, 1980. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

§275.6 Definitions.

(a) *Financial institution.* Any office of a bank, savings bank, credit card issuer, industrial loan company, trust company, savings and loan, building and loan, homestead association (including cooperative banks), credit union, or consumer finance institution that is located in any State or territory of the United States, or in the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(b) *Financial record.* An original, its copy, or information known to have been extracted from the original record held by a financial institution that pertains to a customer's relationship with the financial institution.

(c) *Person.* An individual or a partnership of five or less individuals.

(d) *Customer.* Any person or authorized representative of that person who used or is using any service of a financial institution or for whom a financial institution is acting or has acted as fiduciary for an account maintained in the name of that person.

(e) *Law enforcement office.* Any element of a DoD Component authorized by the Component head to conduct law enforcement inquiries.

(f) *Law enforcement inquiry.* A lawful investigation or official proceeding that inquires into a violation of or failure to comply with a criminal or civil statute, or any rule, regulation, or order issued pursuant thereto.

(g) *Personnel security investigation.* An investigation required to determine a person's eligibility for access to classified information, assignment or retention in sensitive duties, or other designated duties requiring such investigation. Personnel security investigations include investigations of subversive affiliations, suitability information, or hostage situations conducted for the purpose of making personnel security determinations; and also include investigations of allegations that arise subsequent to adjudicative action that require resolution to determine an individual's current eligibility for access to classified information, or assignment or retention in a sensitive position.

(h) *Personnel security element.* Any element of a DoD Component authorized by the Secretary of Defense to conduct personnel security investigations.

§275.7 Requesting basic identifying account information.

(a) A DoD law enforcement office may issue a formal written request for basic identifying account information to a financial institution relevant to a legitimate law enforcement inquiry. A request may be issued to a financial institution for any or all of the following identifying data:

(1) Name.

(2) Address.

(3) Account Number.

(4) Type of account of any customer or ascertainable group of customers associated with a financial transaction or class of financial transactions.

(b) A request for disclosure of the above specified basic identifying information concerning a customer's account shall not require any customer notice (§§ 275.9, 275.11, and 275.13), challenge (§ 275.9) or transfer (§ 275.13) procedures. However, this partial exception for basic identifying data shall not alter the mandatory access requirements set forth in §§ 275.8 and 275.9 to obtain the actual financial record itself.

(c) A format for requesting basic identifying account data is set forth in enclosure 1 of this part.

[45 FR 17576, Mar. 19, 1980. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

§ 275.8 Procedures for obtaining customer's consent.

(a) A DoD law enforcement office or personnel security element seeking access to a person's financial records shall, when feasible, obtain the customer's consent.

(b) Any consent obtained under § 275.8(a) shall:

(1) Be in writing, signed, and dated.

(2) Identify the particular financial records that are being disclosed.

(3) State that the customer may revoke the consent at any time before disclosure.

(4) Specify the purpose for disclosure and to which agency the records may be disclosed.

(5) Authorize the disclosure for a period not in excess of 3 months.

(6) Contain a Privacy Act advisory statement required by part 286a of this title for a personnel security investigation.

(7) Contain a ''Statement of Customer Rights Under the Right to Financial Privacy Act of 1978'' (enclosure 2).

(c) Any customer's consent not containing all of the elements listed in § 275.8(b), shall be void. A customer consent form, in a format set forth in enclosure 2, shall be used for this purpose.

(d) A copy of the customer's consent shall be made a part of the law enforcement inquiry or personnel security investigation file.

(e) A certification of compliance with 12 U.S.C. 3401 et seq., in writing (enclosure 4), along with the customer's consent, shall be provided to the financial institution as a prerequisite to obtaining access to financial records.

(f) The annual reporting requirements of § 275.14 shall apply to any request for access under § 275.8(a).

[45 FR 17576, Mar. 19, 1980. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

§ 275.9 Other access procedures.

(a) *Access by compulsory legal process*—(1) *Administrative summons or subpoena.* (i) Within the Department of Defense, the Inspector General, DoD, has the authority under Pub. L. 95–452 (The Inspector General Act of 1978, as amended by Pub. L. 97–252) to issue administrative subpoenas for access to financial records. No other DoD Component official may issue summonses or subpoenas for access to these records.

(ii) The Inspector General, DoD, shall issue administrative procedures for access to financial records in accordance with established procedures.

(2) *Search warrant.* (i) A law enforcement office may obtain financial records by using a search warrant obtained under Rule 41 of the Federal Rules of Criminal Procedure in appropriate cases.

(ii) Unless a delay of notice has been obtained under provisions of § 275.12, the law enforcement office shall, no later than 90 days after serving the search warrant, mail to the customer's last known address a copy of the search warrant together with the following notice:

> Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this [agency or department] on [date] for the following purpose: [state purpose]. you may have rights under the Right to Financial Privacy Act of 1978.

(iii) In any state or territory of the United States, or in the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands, search warrants signed by installation commanders or military judges shall not be used to gain access to financial records.

(3) *Judicial subpoena.* Judicial subpoenas are those issued in connection with a pending judicial proceeding and inlcude subpoenas issued under paragraph 115 of the Manual for Courts-

Martial (1969 Revised) and Article 46 of the Uniform Code of Military Justice. Cognizant legal counsel shall be consulted on the availability and use of judicial subpoenas.

(b) *Formal written request.* (1) A law enforcement office may issue a formal written request for financial records when the records sought are relevant to a legitimate law enforcement inquiry. This request may be issued only if the customer has declined to consent, §275.8, to the disclosure of his or her records, or if it is determined that to seek consent from the customer would compromise or harmfully delay a legitimate law enforcement inquiry.

(2) A formal written request shall be in a format set forth in enclosure 3 and shall:

(i) State that the request is issued under the Right to Financial Privacy Act of 1978 and the Component's implementation of this part.

(ii) Describe the specific records to be examined.

(iii) State that access is sought in connection with a legitimate law enforcement inquiry.

(iv) Describe the nature of the inquiry.

(v) Be signed by the head of the law enforcement office or a designee.

(3) When a formal written request is issued to a financial institution, a copy of the request shall, at the same time or before, be personally served upon, or mailed to the customer's last known address unless a delay of customer notice has been obtained under §275.12. The notice to the customer shall be in a format similar to enclosure shall be personally served at least 14 days or mailed at least 18 days prior to the date on which access is sought.

(4) The official who signs the customer notice shall be designated to receive any challenge from the customer.

(5) The customer shall have 14 days to challenge a notice request when personal service is made and 18 days when service is by mail.

(6) Components shall establish procedures to ensure that no access to financial records is attempted before the expiration of the pertinent time period while awaiting receipt of a potential customer challenge, or prior to the adjudication, prescribed by 12 U.S.C. 3410, of any challenge made.

(7) When a customer fails to file a challenge to access to financial records within the pertinent above time periods, or after a challenge is adjudicated in favor of the law enforcement office, the head of the office, or a designee, shall certify in writing to the financial institution that such office has complied with the requirements of 12 U.S.C. 3401 et seq. No access to any financial records shall be made before such certification is given.

(c) *Certification.* Prior to obtaining the requested records under §275.9 (a)(2) and (a)(3), a certification of compliance with 12 U.S.C. 3401 et seq. and Enclosure 4 of this part, shall be provided to the financial institution as a prerequisite to obtaining access to financial records.

(d) *Annual report.* The annual reporting requirements of §275.14 shall apply to access procedures under paragraph (a) and (b) of this section.

[45 FR 17576, Mar. 19, 1980, as amended at 48 FR 20228, May 5, 1983. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

§275.10 Requests for financial records in connection with foreign intelligence and foreign counterintelligence activities.

(a) Except as specified in paragraph (b) of this section, nothing in this part shall apply to requests for financial records in connection with authorized foreign intelligence and foreign counterintelligence activities as defined in E.O. 12036, January 24, 1978.

(b) When a request for financial records is made under paragraph (a) of this section, a Component official designated by the Secretary of Defense, the Secretary of a Military Department, or the Head of the DoD Component authorized to conduct foreign intelligence and foreign counterintelligence activities shall certify to the financial institution that the requesting Component has complied with the provisions of 12 U.S.C. 3401 et seq. Such certification, in a format similar to enclosure 4 of this part, shall be made before obtaining any records.

(c) A Component requesting financial records under paragraph (a) of this section, may notify the financial institution from which records are sought that section 3414(3) of 12 U.S.C., prohibits disclosure to any person by the institution, its agents, or employees that financial records have been sought or obtained.

(d) The annual reporting requirements of § 275.14 shall apply to any request for access under paragraph (a) of this section.

[45 FR 17576, Mar. 19, 1980. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

§ 275.11 Emergency access procedures.

(a) Except as provided in paragraph (b) and (c) of this section, nothing in this part shall apply to a request for financial records from a financial institution when the law enforcement office making such request determines that a delay in obtaining access to such records would create an imminent danger of:

(1) Physical injury to any person.

(2) Serious property damage.

(3) Flight to avoid prosecution.

(b) When access is made to financial records under paragraph (a) of this section, Component official designated by the Secretary of Defense or the Secretary of a Military Department shall:

(1) Certify in writing, in a format set forth in Enclosure 4 of this part, to the financial institution that the Component has complied with the provisions of 12 U.S.C. 3401 et seq., as a prerequisite to obtaining access.

(2) Submit for filing with the appropriate court a signed sworn statement setting forth the grounds for the emergency access within 5 days of obtaining access to financial records.

(c) After filing of the signed sworn statement required by paragraph (b)(2) of this section, the Component that has obtained access to financial records under paragraph (a) of this section, shall personally serve or mail to the customer a copy of the request to the financial institution and the following notice, unless a delay of notice has been obtained under § 275.12.

Records concerning your transactions held by the financial institution named in the attached request were obtained by [agency or department] under the Right to Financial Privacy Act of 1978 on [date] for the following purpose: [state with reasonable specificity the nature of the law enforcement inquiry]. Emergency access to such records was obtained on the grounds that [state grounds].

Mailings under this paragraph shall be by certified or registered mail to the last known address of the customer.

(d) The annual reporting requirements of § 275.14 shall apply to any access pursuant to paragraph (a) of this section.

[45 FR 17576, Mar. 19, 1980. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

§ 275.12 Procedures for delay of notice.

(a) The customer notice required by § 275.9(b)(3), § 275.11(c), or § 275.13(c) may be delayed for successive periods of 90 days. The notice required by paragraph (a)(2)(ii) of this section may be delayed for one period of 180 days and successive periods of 90 days. A delay of notice may only be granted by a court of competent jurisdiction and only when not serving the notice would result in:

(1) Endangering the life or physical safety of any person.

(2) Flight from prosecution.

(3) Destruction of or tampering with evidence.

(4) Intimidation of potential witnesses.

(5) Otherwise seriously jeopardizing an investigation or official proceeding or unduly delaying a trial or ongoing official proceeding to the same degree as the circumstances in paragraphs (a)(1) through (4) of this section.

(b) When a delay of notice is appropriate, legal counsel shall be consulted to obtain such a delay. Application for delays of notice shall be made with reasonable specificity.

(c) Upon the expiration of a delay obtained under paragraph (a) of this section, of a notice required by:

(1) Section 275.9(a)(2)(ii), the law enforcement office obtaining such records shall mail to the customer a copy of the search warrant and the following notice:

Records or information concerning your transactions held by the financial institution named in the attached search warrant

were obtained by this [agency or department] on [date]. Notification was delayed beyond the statutory 90-day delay period pursuant to a determination by the court that such notice would seriously jeopardize an investigation concerning [state with reasonable specificity]. You may have rights under the Right to Financial Privacy Act of 1978.

(2) Section 275.9(b)(3), the law enforcement office obtaining such records shall serve personally or mail to the customer a copy of the process or request and the following notice:

Records of information concerning your transactions which are held by the financial institution named in the attached process or request were supplied to or requested by the Government authority named in the process or request on [date]. Notification was withheld pursuant to a determination by the [title of the court so ordering] under the Right to Financial Privacy Act of 1978 that such notice might [state reason]. The purpose of the investigation or official proceeding was [state purpose with reasonable specificity].

(3) Section 275.11(c), the law enforcement office obtaining financial records shall serve personally or mail to the customer a copy of the request and the notice required by §275.11(c).

(4) Section 275.13(c), the law enforcement office or personnel security element transferring such records shall serve personally or mail to the customer the notice required by §275.13(c).

(d) The annual reporting requirements of §275.14 shall apply to any request for access under the delay of notice.

[45 FR 17576, Mar. 19, 1980. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

§275.13 Procedures for releasing information obtained from financial institutions.

(a) Financial records obtained under 12 U.S.C. 3401 et seq., shall be marked:

This record was obtained pursuant to the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., and may not be transferred to another federal agency or department without prior compliance with the transferring requirements of 12 U.S.C. 3412.

(b) Financial records obtained under the provisions of 12 U.S.C. 3401 et seq., shall not be transferred to another agency or department outside the Department of Defense unless the head of the transferring law enforcement office, personnel security element, or delegate certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department. Such certificates shall be maintained with the DoD Component copy of the released records.

(c) Unless a delay of customer notice has been obtained under §275.12, when financial information is transferred under paragraph (b) of this section the law enforcement office or personnel security element shall within 14 days, personally serve or mail to the customer, at his or her last known address, a copy of the certificate required by paragraph (b) of this section, and the following notice:

Copies of or information contained in your financial records lawfully in possession of (name of Component) have been furnished to (name of agency) pursuant to the Right to Financial Privacy Act of 1978 for the following purposes: [state the nature of the law enforcement inquiry with reasonable specificity]. If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974.

(d) If a request for release of information is from a federal agency authorized to conduct foreign intelligence or foreign counterintelligence activities, as defined in E.O. 12036 for purposes of conducting such activities, the transferring DoD Component shall release the information without notifying the customer, unless permission to provide notification is given in writing by the requesting agency.

(e) Whenever financial data obtained under this part is incorporated into a report of investigation or other correspondence, precautions must be taken to ensure that:

(1) The reports or correspondence are not distributed outside the Department of Defense except in compliance with paragraphs (b) and (c) of this section; and

(2) The report or correspondence contains an appropriate warning restriction on the first page or cover.

(f) A suggested restrictive legend for use on the first page or cover sheet of reports or other correspondence follows:

Some of the information contained herein (cite specific paragraph) is financial record information which was obtained pursuant to the Right to Privacy Act of 1978, 12 U.S.C. 3401 et seq. This information may not be released to another federal agency or department outside the Department of Defense without compliance with the specific requirements of 12 U.S.C. 3412.

[45 FR 17576, Mar. 19, 1980, as amended at 46 FR 29706, June 3, 1981. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

§ 275.14 Right to Financial Privacy Act of 1978 Annual Report.

(a) Each affected DoD Component shall compile an annual report setting forth the following for the preceding calendar year:

(1) The number of requests for access to financial institutions specifying the types of access and any other information deemed relevant or useful.

(2) The number of customer challenges to access and whether they were successful.

(3) The number of transfers to agencies outside of the Department of Defense of information obtained under this part.

(4) The number of customers challenges to the transfer of information and whether they were successful.

(5) The number of applications for delay of notice, the number granted, and the names of the officials requesting such delays.

(6) The number of delay of notice extensions sought and the number granted.

(7) The number of refusals by financial institutions to grant access by category of authorization, such as, customer consent or formal written request.

(b) This report shall be submitted to the Defense Privacy Board, Office of the Deputy Assistant Secretary of Defense (Administration), by February 15 annually.

ENCLOSURE 1—REQUEST FOR BASIC IDENTIFYING ACCOUNT DATA FORMAT

[Official Letterhead]

Mr./Mrs. _____,
Chief Teller (as appropriate), First National Bank, Little Rock, AR 72203

Dear Mr./Mrs. _____. In connection with a legitimate law enforcement inquiry and pursuant to section 3413(g) of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., you are requested to provide the following account information: [Name, address, account number, and type of account of any customer or ascertainable group of customers associated with a certain class of financial transactions as set forth in § 275.7.]

I hereby certify, pursuant to section 3403(b) of the Right of Financial Privacy Act of 1978, that the provisions of the Act have been complied with as to this request for account information.

[Official Signature Block]

Under section 3417(c) of the Act, good faith reliance upon this certification relieves your institution and its employees and agents of any possible liability to the subject in connection with the disclosure of the requested financial records.

[46 FR 29706, June 3, 1981. Redesignated and amended at 56 FR 57984, Nov. 15, 1991]

ENCLOSURE 2—CUSTOMER CONSENT AND AUTHORIZATION FOR ACCESS FORMAT

Pursuant to section 3404(a) of the Right to Financial Privacy Act of 1978, I, [Name of customer], having read the explanation of my rights on the reverse side, hereby authorize the [Name and address of financial institution] to disclose these financial records: [List the particular financial records] to [DoD Component] for the following purpose(s): [Specify the purpose(s)].

I understand that this authorization may be revoked by me in writing at any time before my records, as described above, are disclosed, and that this authorization is valid for no more than three months from the date of my signature.

Date: _____

Signature: _____

[Typed name]

[Mailing address of customer]

Statement of Customer Rights Under the Right to Financial Privacy Act of 1978

Federal law protects the privacy of your financial records. Before banks, savings and loan associations, credit unions, credit card issuers, or other financial institutions may give financial information about you to a federal agency, certain procedures must be followed.

Consent to Financial Records

You may be asked to consent to the financial institution making your financial records available to the Government. You may withhold your consent, and your consent is not required as a condition of doing business with any financial institution. If you give your consent, it can be revoked in writing at any time before your records are disclosed.

Furthermore, any consent you give is effective for only three months, and your financial institution must keep a record of the instances in which it discloses your financial information.

Without Your Consent

Without your consent, a federal agency that wants to see your financial records may do so ordinarily only by means of a lawful subpoena, summons, formal written request, or search warrant for that purpose. Generally, the federal agency must give you advance notice of its request for your records explaining why the information is being sought and telling you how to object in court. The federal agency must also send you copies of court documents to be prepared by you with instructions for filling them out. While these procedures will be kept as simple as possible, you may want to consult an attorney before making a challenge to a federal agency's request.

Exceptions

In some circumstances, a federal agency may obtain financial information about you without advance notice or your consent. In most of these cases, the federal agency will be required to go to court for permission to obtain your records without giving you notice beforehand. In these instances, the court will make the Government show that its investigation and request for your records are proper.

When the reason for the delay of notice no longer exists, you will usually be notified that your records were obtained.

Transfer of Information

Generally, a federal agency that obtains your financial records is prohibited from transferring them to another federal agency unless it certifies in writing that the transfer is proper and sends a notice to you that your records have been sent to another agency.

Penalties

If the federal agency or financial institution violates the Right to Financial Privacy Act, you may sue for damages or seek compliance with the law. If you win, you may be repaid your attorney's fee and costs.

Additional Information

If you have any questions about your rights under this law, or about how to consent to release your financial records, please call the official whose name and telephone number appears below:

_____

(Last Name, First Name, Middle Initial) Title (Area Code) (Telephone number)

_____

(Component activity, Local Mailing Address)

[46 FR 29706, June 3, 1981. Redesignated at 56 FR 57984, Nov. 15, 1991]

ENCLOSURE 3—FORMAL WRITTEN REQUEST FOR ACCESS FORMAT

[Official Letterhead]

Mr./Mrs. _____,
President (as appropriate), City National Bank and Trust Company, Altoona, PA

Dear Mr./Mrs. _____. In connection with a legitimate law enforcement inquiry and pursuant to section 3402(5) and section 3408 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., and [cite Component's implementation of this part], you are requested to provide the following account information pertaining to the subject:

[Describe the specific records to be examined]

The [DoD Component] is without authority to issue an administrative summons or subpoena for access to these financial records which are required for [Describe the nature or purpose of the inquiry].

A copy of this request was [personally served upon or mailed] to the subject on [Date] who has [10 or 14] days in which to challenge this request by filing an application in an appropriate United States district court if the subject desires to do so.

Upon the expiration of the above mentioned time period and absent any filing or challenge by the subject, you will be furnished a certification certifying in writing that the applicable provisions of the Act have been complied with prior to obtaining the requested records. Upon your receipt of a Certificate of Compliance with the Right to Financial Privacy Act of 1978, you will be relieved of any possible liability to the subject in connection with the disclosure of the requested financial records.

[Official Signature Block]

[46 FR 29706, June 3, 1981. Redesignated at 56 FR 57984, Nov. 15, 1991]

ENCLOSURE 4—CERTIFICATE OF COMPLIANCE WITH THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

[Official Letterhead]

Mr./Mrs. _____,
Manager, Army Federal Credit Union, Fort Ord, CA 93941

Dear Mr./Mrs. _____. I certify, pursuant to section 3403(b) of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., that the applicable provisions of that statute have been complied with as to the [Customer's consent, search warrant or judicial subpoena, formal written request, emergency access, as applicable] presented on [Date],

for the following financial records of [Customer's name]:

[Describe the specific records]

[Official Signature Block]

Pursuant to section 3417(c) of the Right to Financial Privacy Act of 1978, good faith reliance upon this certificate relieves your institution and its employees and agents of any possible liability to the customer in connection with the disclosure of these financial records.

[46 FR 29706, June 3, 1981. Redesignated at 56 FR 57984, Nov. 15, 1991]

ENCLOSURE 5—OBTAINING ACCESS TO FINANCIAL RECORDS OVERSEAS

(a) The provisions of 12 U.S.C. 3401 et seq. do not govern obtaining access to financial records maintained by military banking contractors in overseas or other financial institutions in offices located on DoD installations outside the United States, the District of Columbia, Guam, American Samoa, or the Virgin Islands. The purpose of this part is to describe a uniform procedure for access to the financial records of these institutions.

(b) Access to financial records maintained by military banking contractors in overseas areas or other financial institutions located on DoD installations outside the United States, the District of Columbia, Guam, American Samoa or the Virgin Islands is preferably obtained by customer consent. However, in those cases where it would not be appropriate to obtain this consent or where such consent is refused and the financial institution is not otherwise willing to provide access to its records the law enforcement activity may seek access by the use of a search authorization issued by the appropriate military official. This search authorization shall be issued in accordance with established Component procedures and the Military Rules of Evidence.

(c) Information obtained under this enclosure shall be properly identified as financial information and transferred only where an official need-to-know exists. Failure to identify or limit access in accordance with this paragraph does not render the information inadmissible in courts-martial or other proceedings.

(d) Access to financial records maintained by all other financial institutions overseas by law enforcement activities shall be in accordance with the local foreign statutes or procedures governing such access.

[46 FR 29706, June 3, 1981. Redesignated at 56 FR 57984, Nov. 15, 1991]

PART 277—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT

Sec.
277.1 Purpose.
277.2 Applicability.
277.3 Policy.
277.4 Responsibilities.

APPENDIX TO PART 277—PROGRAM FRAUD CIVIL REMEDIES

AUTHORITY: 31 U.S.C. 3807.

SOURCE: 53 FR 39262, Oct. 6, 1988, unless otherwise noted.

§ 277.1 Purpose.

This part establishes uniform policies, assigns responsibilities, and prescribes procedures for implementation of Pub. L. 99–509.

§ 277.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD); the Military Departments; the Office of the Inspector General, Department of Defense (OIG, DoD); the Defense Agencies; and the DoD Field Activities (hereafter referred to collectively as ''DoD Components'').

§ 277.3 Policy.

It is DoD policy to redress fraud in DoD programs and operations through the nonexclusive use of Pub. L. 99–509. All DoD Components shall comply with the requirements of this part in using this new remedy. Changes or modifications to this part by implementing organizations are prohibited. Implementing regulations are authorized only to the extent necessary to effectively carry out the requirements of this part.

§ 277.4 Responsibilities.

(a) The *Inspector General, Department of Defense* (IG, DoD), shall establish procedures for carrying out the duties and responsibilities of the ''investigating official'' as outlined in the appendix of this part.

(b) The *General Counsel, Department of Defense* (GC, DoD), shall:

(1) Establish procedures for carrying out the duties and responsibilities of