

Office of the Secretary of the Treasury

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act on behalf of such individual. (See 5 U.S.C. 552a (h))

§ 1.35 Information forms.

(a) *Review of forms.* Except for forms developed and used by constituent units, the Deputy Assistant Secretary for Administration shall be responsible for reviewing all forms developed and used by the Department of the Treasury to collect information from and about individuals. The heads of components shall each be responsible for the review of forms used by such component to collect information from and about individuals.

(b) *Scope of review.* The responsible officers shall review each form for the purpose of eliminating any requirement for information that is not relevant and necessary to carry out an agency function and to accomplish the following objectives;

(1) To insure that no information concerning religion, political beliefs or activities, association memberships (other than those required for a professional license), or the exercise of First Amendment rights is required to be disclosed unless such requirement of disclosure is expressly authorized by statute or is pertinent to, and within the scope of, any authorized law enforcement activity;

(2) To insure that the form or a separate form that can be retained by the individual makes clear to the individual which information he is required by law to disclose and the authority for that requirement and which information is voluntary;

(3) To insure that the form or a separate form that can be retained by the individual states clearly the principal purpose or purposes for which the information is being collected, and summarizes concisely the routine uses that will be made of the information;

(4) To insure that the form or a separate form that can be retained by the individual clearly indicates to the individual the effect in terms of rights, benefits or privileges of not providing all or part of the requested information; and

(5) To insure that any form requesting disclosure of a Social Security Number, or a separate form that can be retained by the individual, clearly ad-

vises the individual of the statute or regulation requiring disclosure of the number or clearly advises the individual that disclosure is voluntary and that no consequence will follow from the refusal to disclose it, and the uses that will be made of the number whether disclosed mandatorily and voluntarily.

(c) *Revision of forms.* Any form which does not meet the objectives specified in the Privacy Act and in this section, shall be revised to conform thereto. A separate statement may be used in instances when a form does not conform. This statement will accompany a form and shall include all the information necessary to accomplish the objectives specified in the Privacy Act and this section.

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

In accordance with 5 U.S.C. 552a (j) and (k) and § 1.23(c), constituent units of the Department of the Treasury exempt the following systems of records from certain provisions of the Privacy Act for the reasons indicated:

OFFICE OF THE SECRETARY

OFFICE OF THE GENERAL COUNSEL

Notice exempting a system of records from requirements of the Privacy Act

(a) *In general.* The General Counsel of the Treasury exempts the system of records entitled "Treasury Interagency Automated Litigation System (TRIALS)" from the provisions of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) of 5 U.S.C. 552a. The manual part of this system of records contains information or documents relating to litigation or administrative proceedings involving or concerning the Department or its officials, and includes pending, active and closed files. The manual records consist of copies of pleadings, investigative reports, information compiled in reasonable anticipation of a civil action or proceeding, legal memoranda, and related correspondence. Pleadings which have been filed with a court or administrative tribunal are matters of public record and no exemption is claimed as

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to them. The computerized part of the system contains summary data on Treasury Department non-tax litigation and administrative proceedings, e.g., plaintiff, defendant, attorney, witness, judge and/or hearing officer names, type of case, relief sought, date, docket number, pertinent dates, and issues. The purpose of the exemptions is to maintain the confidentiality of investigatory materials compiled for law enforcement purposes; information compiled in reasonable anticipation of a civil action a proceeding is exempt from access under section (d)(5) until the file is closed; thereafter section (k)(2) may apply in part to the information. Legal memorandum and related correspondence contain no personal information and are not subject to disclosure under section 552a. Determinations concerning whether particular information contained in this system is exempt from disclosure will be made at the time a request is received from an individual to gain access to information pertaining to him.

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552a(k), and pursuant to the authority vested in the General Counsel by 31 CFR 1.23(c).

(c) *Name of system.* Treasury Interagency Automated Litigation System (TRIALS).

(d) *Provisions from which exempted.* This system contains records described in 5 U.S.C. 552a(k), the Privacy Act of 1974. Exemption will be claimed for such records only where appropriate from the following provisions, subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of 5 U.S.C. 552a.

(e) *Reasons for claimed exemptions.* Those sections would otherwise require the Department to notify an individual of investigatory materials maintained in a record pertaining to him, permit access to such record, permit requests for its correction (section 552a(d), (e)(4)(G), (H), and (f)); make available to him any required accounting of disclosures made of the record (section 552a(c)(3)), publish the sources of records in the system (section 552a(e)(4)(I)); and screen records to insure that there is maintained only such information about an individual as is

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relevant to accomplish a required purpose of the Department (section 552a(e)(1)). The records compiled for the prosecution or defense of civil litigation on behalf of the Department or its officials contain investigatory materials compiled for litigation purposes, together with memoranda concerning the applicable law, and related correspondence. The use of investigatory material in court proceedings is governed by due process and statutory procedural requirements. Informing individuals that they are on record in a particular system enables such individuals to learn the nature of the investigatory material and the evidentiary basis for prosecuting or defending legal proceedings to which they are a party; furthermore, the disclosure of certain investigatory material compiled for law enforcement purposes may disclose investigative techniques and procedures so that future law enforcement efforts would be hindered. Access to an accounting of disclosures of such records would have a similar detrimental effort upon the successful prosecution of legal claims. In addition, screening for relevancy to Department purposes, and correction or attempted correction of such materials could require excessive amounts of time and effort on the part of all concerned. Accordingly, the General Counsel finds that the public interest and public policy in maintaining an effective legal services program requires exemption from the stated sections of the Act to the extent that they are applicable to appropriate materials in this system.

OFFICE OF THE INSPECTOR GENERAL

Notice exempting a system of records from the disclosure requirements of the Privacy Act of 1974

(a) *In general.* The Office of the Inspector General, Department of the Treasury exempts the system of records entitled, "General Allegations and Investigative Records" from certain provisions of the Privacy Act of 1974. The purpose of the exemption is to maintain confidentiality of data obtained from various sources that may ultimately accomplish a statutory or executively ordered purpose.

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(b) *Authority*: The authority to issue exemptions is vested in the Office of the Inspector General, as a constituent unit of the Treasury Department by 31 CFR 1.20.

(c) *Exemptions under 5 U.S.C. 552a(j)(2)*: (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Office of the Inspector General is authorized under Treasury Department Order No. 256 to initiate, organize, direct, and control investigations of any allegations of illegal acts, violations, and any other misconduct, concerning any official or employee of any Treasury Office or Bureau.

(2) To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the above named system of records, then the exemption under 5 U.S.C. 552a(k)(2) relating to investigatory material compiled for law enforcement purposes is claimed for this system.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

5 U.S.C. 552a(c)(3) and (4)
5 U.S.C. 552a(d)(1), (2), (3), (4)
5 U.S.C. 552a(e)(1)(2) and (3)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(e)(5) and (8)
5 U.S.C. 552a(f)
5 U.S.C. 552a(g)

(d) *Exemptions under 5 U.S.C. 552a(k)(2)*: (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled for law enforcement purposes.

(2) To the extent that information contained in the above named system has as its principal purpose the enforcement of criminal laws, the exemption for such information under 5 U.S.C. 552a(j)(2) is claimed.

(3) Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(f)

(e) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2)*: (1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(2) 5 U.S.C. 552a(c)(4), (d)(1), (2), (3), and (4), (e)(4)(G) and (H), (f) and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the agency procedures relating to access to records and the contest of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings; co-defendants of a right to a fair trial; constitute an unwarranted invasion of the personal privacy of others, disclose the identity of confidential sources and reveal confidential information supplied by these sources; and disclose investigative techniques and procedures.

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(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

(A) Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

(B) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

(C) In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(D) In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the

information may result in adverse determinations about an individual's rights, benefits, and privilege under Federal programs. The application of the provision would impair investigations of illegal acts, violations of the rules of conduct, merit system and any other misconduct for the following reasons:

(A) In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources.

(B) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

(C) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities to avoid apprehension.

(D) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

(6) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

(A) The authority under which the information is sought and whether disclosure of the information is mandatory or voluntary.

(B) The purposes for which the information is intended to be used.

(C) The routine uses which may be made of the information, and

(D) The effects on the subject, if any of not providing the requested information. The reasons for exempting this system of records from the foregoing provision are as follows:

(i) The disclosure to the subject of the investigation as stated in (B) above

would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(ii) If the subject were informed of the information required by this provision, it could seriously interfere with undercover activities by requiring disclosure of undercover agents identity and impairing their safety, as well as impairing the successful conclusion of the investigation.

(iii) Individuals may be contacted during preliminary information gathering in investigations authorized by Treasury Department Order No. 256 before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed into a logical order which objectively proves or disproves criminal behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing

criminal investigation to the subject of the investigation.

(f) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a(j) or (k) which also is included in another system of records retains the same exempt status as in the system for which an exemption is claimed.

ASSISTANT SECRETARY FOR
ADMINISTRATION

The Assistant Secretary for Administration exempts under section (k) of the Privacy Act of 1974, 5 U.S.C. 552a, the Department's Personnel Security Files and Personnel Security Files and Indices from sections (c)(3), (d), (e)(1), (e)(4)(G) through (e)(4)(I), and (f) of the Act. The records maintained in the exempt systems of records are of the type described in section (k)(5) of the Act:

investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are subject to all the requirements of the Privacy Act.

The sections of the Act from which this system of records are exempt are in general those providing for individual access to records. When such access would cause the identity of a confidential source to be revealed, it would impair the future ability of the Treasury Department to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information.

In addition, the systems are exempt from section (e)(1) which requires that the agency maintain in its records only such information about an individual

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as is relevant and necessary to accomplish a statutory or executively ordered purpose. The Director finds that to fulfill the requirements of section (e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

If any investigations within the scope of section (k)(5) become involved with civil or criminal matters, exemptions from the Act could also be asserted under sections (k)(2) or (j)(2).

EXEMPTION OF FOREIGN ASSETS CONTROL ENFORCEMENT RECORDS FROM CERTAIN PROVISIONS OF THE PRIVACY ACT OF 1974 (PUB. L. 93-579, 5 U.S.C. 552A)

The new regulations promulgated by the Office of Foreign Assets Control (as amendments to its Foreign Assets Control Regulations; Transaction Control Regulations; Cuban Assets Control Regulations; and, Rhodesian Sanction Regulations) read as follows:

Pursuant to subsection (k)(2) of 5 U.S.C. 552a, the Privacy Act of 1974, the Enforcement Records of the Office of Foreign Assets Control are hereby exempted from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G-I), and (f) of 5 U.S.C. 552a, as materials which are compiled and maintained for the purpose of conducting and recording investigations of criminal violations of relevant statutes and regulations administered by the Office of Foreign Assets Control. These records contain, among other things, information and evidence which was furnished in confidence by individuals, corporations, partnerships and other entities, Federal, State and local agencies, and by foreign individuals, corporations, partnerships and other entities, and foreign government sources. If it should appear that the individual concerning whom a record is maintained has been or will be denied any right, privilege, or benefit to which he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, except for the maintenance of such material, such material shall be disclosed to such individual, except: (1) To the extent that disclosure would reveal the identity of a source who fur-

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nished information to the government under an express promise that the identity of the source would be held in confidence; or (2) to the extent that disclosure would reveal the identity of a source who furnished information prior to the effective date of the Privacy Act (September 27, 1975) under an implied promise that the identity of the source would be held in confidence.

ASSISTANT SECRETARY (ENFORCEMENT)

FINANCIAL CRIMES ENFORCEMENT NETWORK

Notice of Exempt System

(a) *In general.* The Assistant Secretary of the Treasury for Enforcement exempts the system of records entitled "FinCEN Data Base" (Treasury/DO .200) from certain provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(b) *Authority:* 5 U.S.C. 552a (j) and (k); 31 CFR 1.23(c).

(c) *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to 5 U.S.C. 552a(j)(2), the Assistant Secretary for Enforcement hereby exempts the FinCEN Data Base system of records, maintained by the Financial Crimes Enforcement Network ("FinCEN"), an office reporting to the Assistant Secretary for Enforcement, from the following provisions of the Privacy Act of 1974:

5 U.S.C. 552a(c) (3) and (4);
5 U.S.C. 552a(d) (1), (2), (3) and (4);
5 U.S.C. 552a (e) (1), (2) and (3);
5 U.S.C. 552a(e)(4) (G), (H) and (I);
5 U.S.C. 552a(e) (5) and (8);
5 U.S.C. 552a(f); and
5 U.S.C. 552a(g).

(d) *Specific exemptions under 5 U.S.C. 552a(k)(1).* To the extent that the system of records may contain information subject to the provisions of 5 U.S.C. 552(b)(1), regarding national defense and foreign policy information classified pursuant to Executive order, the Assistant Secretary for Enforcement hereby exempts the FinCEN Data Base system of records from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(1):

5 U.S.C. 552a(c)(3);
5 U.S.C. 552a(d) (1), (2), (3), and (4);
5 U.S.C. 552a(e)(1);

5 U.S.C. 552a(e)(4) (G), (H), and (I); and 5 U.S.C. 552a(f).

(e) *Specific exemptions under 5 U.S.C. 552a(k)(2)*. To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the FinCEN Data Base, the Assistant Secretary for Enforcement hereby exempts the FinCEN Data Base system of records from the following provisions of 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(2):

5 U.S.C. 552a(c)(3);
5 U.S.C. 552a(d) (1), (2), (3), and (4);
5 U.S.C. 552a(e)(1);
5 U.S.C. 552a(e)(4) (G), (H), and (I); and
5 U.S.C. 552a(f).

(f) *Reasons for exemptions under 5 U.S.C. 552a (j)(2) and (k)(2)*. (1) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to inquire whether a system of records contains records pertaining to them. Application of these provisions to the FinCEN Data Base would allow individuals to learn whether they have been identified as suspects or subjects of investigation. As further described in the following paragraph, access to such knowledge would impair FinCEN's ability to carry out its mission, since individuals could (i) take steps to avoid detection, (ii) inform associates that an investigation is in progress, (iii) learn the nature of the investigation, (iv) learn whether they are only suspects or identified as law violators, (v) begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records, or (vi) destroy evidence needed to prove the violation.

(2) 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 FinCEN Data Base would compromise FinCEN's ability to provide useful tactical and strategic information to law enforcement agencies.

(i) Permitting access to records contained in the FinCEN Data Base would provide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension by (A) discovering the facts that would form the basis for their arrest, (B) enabling them to destroy or alter evidence of criminal conduct that would form the basis for their arrest, and (C) using

knowledge that criminal investigators had reason to believe that a crime was about to be committed, to delay the commission of the crime or commit it at a location that might not be under surveillance.

(ii) Permitting access to either ongoing or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning crimes to structure their operations so as to avoid detection or apprehension.

(iii) Permitting access to investigative files and records could, moreover, disclose the identity of confidential sources and informers and the nature of the information supplied and thereby endanger the physical safety of those sources by exposing them to possible reprisals for having provided the information. Confidential sources and informers might refuse to provide criminal investigators with valuable information unless they believed that their identities would not be revealed through disclosure of their names or the nature of the information they supplied. Loss of access to such sources would seriously impair FinCEN's ability to carry out its mandate.

(iv) Furthermore, providing access to records contained in the FinCEN Data Base could reveal the identities of undercover law enforcement officers who compiled information regarding the individual's criminal activities and thereby endanger the physical safety of those undercover officers or their families by exposing them to possible reprisals.

(v) By compromising the law enforcement value of the FinCEN Data Base for the reasons outlined in paragraphs (f)(2) through (iv) of this paragraph, permitting access in keeping with these provisions would discourage other law enforcement and regulatory agencies, foreign and domestic, from freely sharing information with FinCEN and thus would restrict FinCEN's access to information necessary to accomplish its mission most effectively.

(vi) Finally, the dissemination of certain information that FinCEN may maintain in the FinCEN Data Base is restricted by law.

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(3) 5 U.S.C. 552a (d) (2), (3) and (4), (e)(4)(H), and (f)(4) permit an individual to request amendment of a record pertaining to him or her and require the agency either to amend the record, or to note the disputed portion of the record and to provide a copy of the individual's statement of disagreement with the agency's refusal to amend a record to persons or other agencies to whom the record is thereafter disclosed. Since these provisions depend on the individual's having access to his or her records, and since these rules propose to exempt the FinCEN Data Base from the provisions of 5 U.S.C. 552a relating to access to records, for the reasons set out in paragraph (f)(2) of this section, these provisions should not apply to the FinCEN Data Base.

(4) 5 U.S.C. 552(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute that the agency made in accordance with 5 U.S.C. 552a(d) to any record that the agency disclosed to the person or agency if an accounting of the disclosure was made. Since this provision depends on an individual's having access to and an opportunity to request amendment of records pertaining to him or her, and since these rules proposed to exempt the FinCEN Data Base from the provisions of 5 U.S.C. 552a relating to access to and amendment of records, for the reasons set out in paragraph (f)(3) of this section, this provision ought not apply to the FinCEN Data Base.

(5) 5 U.S.C. 552a(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.

(i) The application of this provision would impair the ability of law enforcement agencies outside the Department of the Treasury to make effective use of information provided by FinCEN. Making accountings of disclosures available to the subjects of an investigation would alter them to the fact that another agency is conducting an investigation into their criminal activities and could reveal the geographic location of the other agency's

investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for arrest.

(ii) Moreover, providing accountings to the subjects of investigations would alert them to the fact that FinCEN has information regarding their criminal activities and could inform them of the general nature of that information. Access to such information could reveal the operation of FinCEN's information-gathering and analysis systems and permit violators to take steps to avoid detection or apprehension.

(6) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the FinCEN Data Base could compromise FinCEN's ability to provide useful information to law enforcement agencies, since revealing sources for the information could (i) disclose investigative techniques and procedures, (ii) result in threats or reprisals against informers by the subjects of investigations, and (iii) cause informers to refuse to give full information to criminal investigators for fear of having their identities as sources disclosed.

(7) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain," as defined in 5 U.S.C. 552a(a)(3), includes "collect" and "disseminate." The application of this provision to the FinCEN Data Base could impair FinCEN's ability to collect and disseminate valuable law enforcement information.

(i) At the time that FinCEN collects information, it often lacks sufficient time to determine whether the information is relevant and necessary to accomplish a FinCEN purpose.

(ii) In many cases, especially in the early stages of investigation, it may be impossible immediately to determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary often may, upon further evaluation or upon collation with information developed subsequently, prove particularly relevant to a law enforcement program.

(iii) Not all violations of law discovered by FinCEN analysts fall within the investigative jurisdiction of the Department of the Treasury. To promote effective law enforcement, FinCEN will have to disclose such violations to other law enforcement agencies, including State, local and foreign agencies, that have jurisdiction over the offenses to which the information relates. Otherwise, FinCEN might be placed in the position of having to ignore information relating to violations of law not within the jurisdiction of the Department of the Treasury when that information comes to FinCEN's attention during the collation and analysis of information in its records.

(8) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision to the FinCEN Data Base would impair FinCEN's ability to collate, analyze, and disseminate investigative, intelligence, and enforcement information.

(i) Most information collected about an individual under criminal investigation is obtained from third parties, such as witnesses and informants. It is usually not feasible to rely upon the subject of the investigation as a source for information regarding his criminal activities.

(ii) An attempt to obtain information from the subject of a criminal investigation will often alert that individual to the existence of an investigation, thereby affording the individual an opportunity to attempt to conceal his criminal activities so as to avoid apprehension.

(iii) In certain instances, the subject of a criminal investigation is not required to supply information to criminal investigators as a matter of legal duty.

(iv) During criminal investigations it is often a matter of sound investigative procedure to obtain information from a variety of sources to verify information already obtained.

(9) 5 U.S.C. 552a(e)(3) requires an agency to inform each individual whom it asks to supply information, on the form that it uses to collect the information or on a separate form that the individual can retain, of the agency's authority for soliciting the information; whether disclosure of information is voluntary or mandatory; the principal purposes for which the agency will use the information; the routine uses that may be made of the information; and the effects on the individual of not providing all or part of the information. The FinCEN Data Base should be exempted from this provision to avoid impairing FinCEN's ability to collect and collate investigative, intelligence, and enforcement data.

(i) Confidential sources or undercover law enforcement officers often obtain information under circumstances in which it is necessary to keep the true purpose of their actions secret so as not to let the subject of the investigation or his or her associates know that a criminal investigation is in progress.

(ii) If it became known that the undercover officer was assisting in a criminal investigation, that officer's physical safety could be endangered through reprisal, and that officer may not be able to continue working on the investigation.

(iii) Individuals often feel inhibited in talking to a person representing a criminal law enforcement agency but are willing to talk to a confidential source or undercover officer whom they believe not to be involved in law enforcement activities.

(iv) Providing a confidential source of information with written evidence that he or she was a source, as required by this provision, could increase the likelihood that the source of information would be subject to retaliation by the subject of the investigation.

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(v) Finally, application of this provision could result in an unwarranted invasion of the personal privacy of the subject of the criminal investigation, particularly where further investigation reveals that the subject was not involved in any criminal activity.

(10) 5 U.S.C. 552a(e)(5) requires an agency to maintain all records it uses in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination.

(i) Since 5 U.S.C. 552a(a)(3) defines “maintain” to include “collect” and “disseminate,” application of this provision to the FinCEN Data Base would hinder the initial collection of any information that could not, at the moment of collection, be determined to be accurate, relevant, timely, and complete. Similarly, application of this provision would seriously restrict FinCEN’s ability to disseminate information pertaining to a possible violation of law to law enforcement and regulatory agencies. In collecting information during a criminal investigation, it is often impossible or unfeasible to determine accuracy, relevance, timeliness, or completeness prior to collection of the information. In disseminating information to law enforcement and regulatory agencies, it is often impossible to determine accuracy, relevance, timeliness, or completeness prior to dissemination, because FinCEN may not have the expertise with which to make such determinations.

(ii) Information that may initially appear inaccurate, irrelevant, untimely, or incomplete may, when collated and analyzed with other available information, become more pertinent as an investigation progresses. In addition, application of this provision could seriously impede criminal investigators and intelligence analysts in the exercise of their judgment in reporting results obtained during criminal investigations.

(11) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when the agency makes any record on the individual available to any person under

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compulsory legal process, when such process becomes a matter of public record. The FinCEN Data Base should be exempted from this provision to avoid revealing investigative techniques and procedures outlined in those records and to prevent revelation of the existence of an ongoing investigation where there is need to keep the existence of the investigation secret.

(12) 5 U.S.C. 552a(g) provides for civil remedies to an individual when an agency wrongfully refuses to amend a record or to review a request for amendment, when an agency wrongfully refuses to grant access to a record, when an agency fails to maintain accurate, relevant, timely, and complete records which are used to make a determination adverse to the individual, and when an agency fails to comply with any other provision of 5 U.S.C. 552a so as to adversely affect the individual. The FinCEN Data Base should be exempted from this provision to the extent that the civil remedies may relate to provisions of 5 U.S.C. 552a from which these rules propose to exempt the FinCEN Data Base, since there should be no civil remedies for failure to comply with provisions from which FinCEN is exempted. Exemption from this provision will also protect FinCEN from baseless civil court actions that might hamper its ability to collate, analyze, and disseminate investigative, intelligence, and law enforcement data.

(g) *In general.* The Assistant Secretary (Enforcement) exempts the system of records entitled “Suspicious Activity Reporting System” (Treasury/DO .212) from certain provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(h) *Authority.* 5 U.S.C. 552a(j) and (k); 31 CFR 1.23(c).

(i) *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to 5 U.S.C. 552a(j)(2), the Assistant Secretary (Enforcement) hereby exempts the Suspicious Activity Reporting System (SAR System) of records, maintained by FinCEN, an office reporting to the Assistant Secretary (Enforcement), from the following provisions of the Privacy Act of 1974:

5 U.S.C. 552a(c)(3) and (4);

5 U.S.C. 552a(d)(1), (2), (3), and (4);

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5 U.S.C. 552a(e)(1), (2), and (3);
5 U.S.C. 552a(e)(4)(G), (H), and (I);
5 U.S.C. 552a(e)(5) and (8);
5 U.S.C. 552a(f); and
5 U.S.C. 552a(g).

(j) *Specific exemptions under 5 U.S.C. 552a(k)(2)*. To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the SAR System of records, the Assistant Secretary (Enforcement) hereby exempts the SAR System of records from the following provisions of 5 U.S.C. 552a pursuant to 5 U.S.C. 552a(k)(2):

5 U.S.C. 552a(c)(3);
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I); and
5 U.S.C. 552a(f).

(k) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2)*. (1) 5 U.S.C. 552a(e)(4)(G) and (f)(1) enable individuals to inquire whether a system of records contains records pertaining to them. Application of these provisions to the SAR System would allow individuals to learn whether they have been identified as suspects or possible subjects of investigation. Access by individuals to such knowledge would seriously hinder the law enforcement purposes that the SAR System is created to serve, because individuals involved in activities that are violations of law could:

- (i) Take steps to avoid detection;
- (ii) Inform associates that an investigation is in progress;
- (iii) Learn the nature of the investigation;
- (iv) Learn whether they are only suspects or identified as violators of law;
- (v) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records, or
- (vi) Destroy evidence needed to prove the violation.

(2) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (f)(3) and (f)(5) grant individuals access to records containing information about them. The application of these provisions to the SAR System would compromise the ability of the component agencies of the SAR System to use the information effectively for purposes of law enforcement.

(i) Permitting access to records contained in the SAR System would pro-

vide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension, because they could;

(A) Discover the facts that would form the basis of an arrest;

(B) Destroy or alter evidence of criminal conduct that would form the basis of their arrest, and

(C) Delay or change the commission of a crime that was about to be discovered by investigators.

(ii) Permitting access to either ongoing or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning crimes to structure their operations so as to avoid detection or apprehension.

(3) 5 U.S.C. 552a(d)(2), (d)(3) and (d)(4), (e)(4)(H) and (f)(4) permit an individual to request amendment of a record pertaining to him or her and require the agency either to amend the record or note the disputed portion of the record and, if the agency refuses to amend the record, to provide a copy of the individual's statement of disagreement with the agency's refusal, to persons or other agencies to whom the record is thereafter disclosed. Because these provisions depend on the individual's having access to his or her records, and since these rules exempt the SAR System from the provisions of 5 U.S.C. 552a relating to access to records, for the reasons set out in paragraph (k)(2), these provisions do not apply to the SAR System.

(4) 5 U.S.C. 552a(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute that the agency made in accordance with 5 U.S.C. 552a(d) to any record that the agency disclosed to the person or agency, if an accounting of the disclosure was made. Because this provision depends on an individual's having access to and an opportunity to request amendment of records pertaining to him or her, and because these rules exempt the SAR System from the provisions of 5 U.S.C. 552a relating to access to and amendment of records, for the reasons set forth in paragraphs (k)(2) and (3), this provision does not apply to the SAR System.

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(5) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of any disclosures of records required by 5 U.S.C. 552a(c)(1) available to the individual named in the record upon his or her request. The accounting must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient.

(i) The application of this provision would impair the effective use of information collected in the SAR System. Making an accounting of disclosures available to the subjects of an investigation would alert them to the fact that another agency is conducting an investigation into their criminal activities and could reveal the geographic location of the other agency's investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for arrest.

(ii) Moreover, providing an accounting to the subjects of investigations would alert them to the fact that FinCEN has information regarding possible criminal activities and could inform them of the general nature of that information. Access to such information could reveal the operation of the information-gathering and analysis systems of FinCEN, the Federal Supervisory Agencies and other SAR System Users and permit violators to take steps to avoid detection or apprehension.

(6) 5 U.S. C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the SAR System could compromise FinCEN's and the Federal Supervisory Agencies' ability to provide useful information to law enforcement agencies, because revealing sources for the information could:

(i) Disclose investigative techniques and procedures,

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(ii) Result in threats or reprisals against informers by the subjects of investigations, and

(iii) Cause informers to refuse to give full information to criminal investigators for fear of having their identities as sources disclosed.

(7) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The application of this provision to the SAR System could impair the effectiveness of law enforcement because in many cases, especially in the early stages of investigation, it may be impossible immediately to determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary, upon further evaluation or upon collation with information developed subsequently, often may prove helpful to an investigation.

(8) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision to the SAR System would impair FinCEN's ability to collect, analyze and disseminate to System Users investigative or enforcement information. The SAR System is designed to house information about known or suspected criminal activities or suspicious transactions that has been collected and reported by financial institutions, or their examiners or other enforcement or supervisory officials. It is not feasible to rely upon the subject of an investigation to supply information. An attempt to obtain information from the subject of any investigation would alert that individual to the existence of an investigation, providing an opportunity to conceal criminal activity and avoid apprehension. Further, with respect to the initial SAR, 31 U.S.C. §5318(g)(2) specifically prohibits financial institutions making such reports from notifying any participant in the transaction that a report has been made.

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(9) 5 U.S.C. 552a(e)(3) requires an agency to inform each individual whom it asks to supply information, on the form that it uses to collect the information or on a separate form that the individual can retain, the agency's authority for soliciting the information; whether disclosure of information is voluntary or mandatory; the principal purposes for which the agency will use the information; the routine uses that may be made of the information; and the effects on the individual of not providing all or part of the information. The application of these provisions to the SAR System would compromise the ability of the component agencies of the SAR System to use the information effectively for purposes of law enforcement.

(10) 5 U.S.C. 552a(e)(5) requires an agency to maintain all records it uses in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Application of this provision to the SAR System would hinder the collection and dissemination of information. Because Suspicious Activity Reports are filed by financial institutions with respect to known or suspected violations of law or suspicious activities, it is not possible at the time of collection for the agencies that use the SAR System to determine that the information in such records is accurate, relevant, timely and complete.

(11) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when the agency makes any record on the individual available to any person under compulsory legal process, when such process becomes a matter of public record. Application of these requirements to the SAR System would prematurely reveal the existence of an ongoing investigation to the subject of investigation where there is need to keep the existence of the investigation secret. It would render ineffective 31 U.S.C. §5318(g)(2), which prohibits financial institutions and their officers, employees and agents from disclosing to any person involved in a transaction that a SAR has been filed.

(12) 5 U.S.C. 552a(g) provides an individual with civil remedies when an agency wrongfully refuses to amend a record or to review a request for amendment, when an agency wrongfully refuses to grant access to a record, when any determination relating to an individual is based on records that are not accurate, relevant, timely and complete, and when an agency fails to comply with any other provision of 5 U.S.C. 552a so as to adversely affect the individual. Because the SAR System is exempt from these provisions it follows that civil remedies for failure to comply with these provisions are not appropriate.

(l) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a (j) or (k) which is also included in another system of records retains the same exempt status such information has in the system for which such exemption is claimed.

THE INTERNAL REVENUE SERVICE

NOTICE OF EXEMPT SYSTEMS

The Commissioner of Internal Revenue finds that the orderly and efficient administration of the internal revenue laws necessitates that certain systems of records maintained by the Internal Revenue Service be exempted from certain sections of the Privacy Act of 1974 (88 Stat. 1986).

(a) *Exemptions under 5 U.S.C. 552a (j) (2).* (1) This paragraph applies to the following systems of records maintained by the Internal Revenue Service, for which exemptions are claimed under 5 U.S.C. 552a(j) (2).

Name of system	No.
Case Management and Time Reporting System, Criminal Investigation Division	46.002
Confidential Informants, Criminal Investigation Division	46.003
Electronic Surveillance Files, Criminal Investigation Division	46.005
Centralized Evaluation and Processing of Information Items (CEPIIs), Criminal Investigation Division	46.009
Relocated Witnesses, Criminal Investigation Division	46.015
Secret Service Details, Criminal Investigation Division	46.016
Treasury Enforcement Communications System (TECS)	46.022
Automated Information Analysis System	46.050
Assault and Threat Investigation Files	60.001

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Name of system	No.
Bribery Investigation Files	60.002
Disclosure Investigation Files	60.004
Internal Security Management Information System (ISMIS)	60.011
Chief Counsel Criminal Tax Case Files	90.001

(2) Under 5 U.S.C. 552a(j)(2), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the agency or component thereof that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. Certain components of the Internal Revenue Service have as their principal function activities pertaining to the enforcement of criminal laws.

(3) To the extent the exemption under 5 U.S.C. 552a(j)(2) does not apply to any of the above-named systems, then exemptions under 5 U.S.C. 552a(k)(2), relating to investigatory material compiled for law enforcement purposes, are hereby claimed for such systems.

(4) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

- 5 U.S.C. 552a(c) (3) and (4)
- 5 U.S.C. 552a(d) (1), (2), (3), and (4)
- 5 U.S.C. 552a(e) (1), (2), and (3)
- 5 U.S.C. 552a(e) (4) (G), (H), and (I)
- 5 U.S.C. 552a(e) (5) and (8)
- 5 U.S.C. 552a(f)
- 5 U.S.C. 552a(g)

(5) See paragraph (c) for reasons for the exemptions.

(b) *Exemptions under 5 U.S.C. 552a(k)(2)*. (1) This paragraph applies to the following systems of records maintained by the Internal Revenue Service, for which exemptions are claimed under 5 U.S.C. 552a(k)(2):

Name of system	No.
Wage and Information Returns Processing (IRP)	22.061
Acquired Property Records	26.001
Form 2209, Courtesy Investigations	26.006
IRS and Treasury Employee Delinquency	26.008
Litigation Case Files	26.011
Offer in Compromise (OIC) Files	26.012
One-hundred Per Cent Penalty Cases	26.013
Returns Compliance Programs (RCP)	26.016
TDA (Taxpayer Delinquent Accounts)	26.019
TDI (Taxpayer Delinquency Investigations) Files	26.020
Transferee Files	26.021
Delinquency Prevention Programs	26.022
Audit Trail Lead Analysis System	34.020

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Name of system	No.
Applicant Appeal Files	37.002
Closed Files containing Derogatory Information about Individuals' practice before the IRS and Files of attorneys and certified public accountants formerly enrolled to Practice	37.003
Derogatory Information (No Action)	37.004
Present Suspensions and Disbarments Resulting from Administrative Proceeding	37.005
Inventory	37.007
Resigned Enrolled Agents (action pursuant to 31 CFR Section 10.55(b))	37.009
Present Suspensions from Practice Before the Internal Revenue Service	37.011
Examination Administrative File	42.001
Audit Information Management System (AIMS)	42.008
Classification and Examination Selection Files	42.016
Compliance Programs and Projects Files	42.021
International Enforcement Program Files	42.017
Combined Case Control Files	42.012
Audit Underreporter Case Files	42.029
Discriminant Function File (DIF)	42.030
Appeals Case Files	44.001
Automated Information Analysis System	46.050
Disclosure Records	48.001
Collateral and Information Requests System	49.001
Component Authority and Index Card Microfilm Retrieval System	49.002
Overseas Compliance Projects System	49.007
Conduct Investigation Files	60.003
Enrollee Charge Investigation Files	60.006
Miscellaneous Information File	60.007
Special Inquiry Investigation Files	60.009
Chief Counsel Disclosure Litigation Division Case Files	90.002
Chief Counsel General Legal Services Case Files ...	90.004
Chief Counsel General Litigation Case Files	90.005
Chief Counsel Tax Litigation Case Files	90.009
File Digest Room Files containing briefs, Legal opinions, Digests of Documents generated internally or by the Department of Justice relating to the Administration of the Revenue Laws	90.010
Legal Case Files of the Chief Counsel, Deputy Chief Counsel, Associate Chief Counsels (Litigation) and (Technical)	90.013
Reports and Information Retrieval Activity Computer and Microfilm Records	90.016
Correspondence File—Inquiries about Enforcement Activities	90.002

(2) Under 5 U.S.C. 552a (k)(2), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled for law enforcement purposes. To the extent that information contained in the above-named systems has as its principal purpose the enforcement of criminal laws, exemption for such information under 5 U.S.C. 552a (j)(2) is hereby claimed.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

- 5 U.S.C. 552a(c) (3)
- 5 U.S.C. 552a(d) (1), (2), (3), and (4)

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5 U.S.C. 552a (e)(1)
5 U.S.C. 552a(e)(4) (G), (H), and (I)
5 U.S.C. 552a(f)

(4) See paragraph (c) for reasons for the exemptions.

(c) *Reasons for exemptions.* The following are the reasons for exempting systems of records maintained by the Internal Revenue Service pursuant to 5 U.S.C. 552a (j)(2) and (k)(2) of the Privacy Act of 1974.

(1) 5 U.S.C. 552a(c)(3). This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the record at his request. The reasons for exempting systems of records from the foregoing provision are as follows:

(i) The release of disclosure accounting would put the subject of an investigation on notice of the existence of an investigation and that such person is the subject of that investigation;

(ii) Such release would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. The release of such information to the subject of an investigation would provide the subject with significant information concerning the nature of the investigation and could result in the altering or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation. In the case of a delinquent account, such release might enable the subject of the investigation to dissipate assets before levy;

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating this person and the scope of the investigation, and could aid the individual in impeding or compromising investigations by those agencies.

(2) 5 U.S.C. 552a (c)(4), (d)(1), (2), (3), and (4), (e)(4) (G) and (H), (f), and (g). These provisions of the Privacy Act relate to an individual's right to notification of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the

agency procedures relating to access to records and the contest of the information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. The reasons for exempting systems of records from the foregoing provisions are as follows: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings; deprive co-defendants of a right to a fair trial or an impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by such sources; and disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. In cases where an exemption from this provision has been claimed, the reasons are as follows:

(i) Revealing categories of sources of information could disclose investigative techniques and procedures;

(ii) Revealing categories of sources of information could cause sources who supply information to investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality.

(4) 5 U.S.C. 552a(e)(1). This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The reasons for exempting systems of records from the foregoing provision are as follows:

(i) The Internal Revenue Service will limit its inquiries to information which is necessary for the enforcement and administration of tax laws. However, an exemption from the foregoing provision is needed because, particularly in the early stages of a tax audit

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or other investigation, it is not possible to determine the relevance or necessity of specific information.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may subsequently be determined to be irrelevant or unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established with certainty.

(iii) When information is received by the Internal Revenue Service relating to violations of law within the jurisdiction of other agencies, the Service processes this information through Service systems in order to forward the material to the appropriate agencies.

(5) 5 U.S.C. 552a(e)(2). This provision of the Privacy Act requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The reasons for exempting systems of records from the foregoing provisions are as follows:

(i) In certain instances the subject of a criminal investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's criminal activities must be obtained from other sources;

(ii) In a criminal investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to accumulate and verify the evidence necessary for the successful prosecution of persons suspected of violating the criminal laws.

(6) 5 U.S.C. 552a(e)(3). This provision of the Privacy Act requires that an agency must inform the subject of an investigation who is asked to supply information of (A) the authority under which the information is sought and whether disclosure of the information is mandatory or voluntary, (B) the purposes for which the information is intended to be used, (C) the routine uses which may be made of the information, and (D) the effects on the subject, if any, of not providing the requested information. The reasons for exempting

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systems of records from the foregoing provision are as follows:

(i) The disclosure to the subject of an investigation of the purposes for which the requested information is intended to be used would provide the subject with significant information concerning the nature of the investigation and could result in impeding or compromising the investigation.

(ii) Informing the subject of an investigation of the matters required by this provision could seriously undermine the actions of undercover officers, requiring them to disclose their identity and impairing their safety, as well as impairing the successful conclusion of the investigation.

(iii) Individuals may be contacted during preliminary information gathering, surveys, or compliance projects concerning the administration of the internal revenue laws before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would impede or compromise subsequent investigations.

(7) 5 U.S.C. 552a(e)(5). This provision of the Privacy Act requires an agency to maintain all records which are used in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. The reasons for exempting systems of records from the foregoing provision are as follows: Since the law defines "maintain" to include the collection of information, compliance with the foregoing provision would prohibit the initial collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of a criminal investigation, it is not feasible or possible to determine completeness, accuracy, timeliness, or relevancy prior to collection of the information. Facts are first gathered and then placed into a cohesive order which objectively proves or disproves criminal behavior on the part of a suspect. Seemingly nonrelevant, untimely, or incomplete information

when gathered may acquire new significance as an investigation progresses. The restrictions of the foregoing provision could impede investigators in the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8). This provision of the Privacy Act requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The reasons for exempting systems of records from the foregoing provision are as follows: The notice requirement of the foregoing provision could prematurely reveal the existence of criminal investigations to individuals who are the subject of such investigations.

(d) *Exemption under 5 U.S.C. 552a(k)(4)*. (1) This paragraph applies to the following system of records maintained by the Internal Revenue Service, for which exemption is claimed under 5 U.S.C. 552a(k)(4): Statistics of Income—Individual Tax Returns 70.001.

(2) Under 5 U.S.C. 552a(k)(4), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is required by statute to be maintained and used solely as statistical records.

(3) The above-named system is maintained under section 6108 of the Internal Revenue Code, which provides that “the Secretary or his delegate shall prepare and publish annually statistics reasonably available with respect to the operation of the income tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable”.

(4) The reason for exempting the above-named system of records is that disclosure of statistical records (including release of accounting for disclosures) would in most instances be of no benefit to a particular individual since the records do not have a direct effect on a given individual.

(5) The provisions of the Privacy Act of 1974 from which exemption is claimed under 5 U.S.C. 552a(k)(4) are as follows:

- 5 U.S.C. 552a(c)(3)
- 5 U.S.C. 552a(d) (1), (2), (3), and (4)
- 5 U.S.C. 552a(e)(1)
- 5 U.S.C. 552a(e)(4) (G), (H), and (I)
- 5 U.S.C. 552a(f)

(e) *Exemptions under 5 U.S.C. 552a(k)(5)*. (1) This paragraph applies to the following systems of records maintained by the Internal Revenue Service, for which exemptions are claimed under 5 U.S.C. 552a(k)(5):

Name of system	No.
Recruiting, Examining and Placement Records	36.008
Security, Background, and Character Investigations Files	60.008
Chief Counsel General Administrative Systems	90.003
Employee Recruiting Files Maintained by the Operations Division	90.011
Management Files Maintained by Operations Division and the Deputy Chief Counsel other than the Office of Personnel Management's Official Personnel Files	90.014

(2) Under 5 U.S.C. 552a(k)(5), the head of any agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled solely for the purpose of determining suitability, eligibility, and qualifications for Federal civilian employment or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Thus, to the extent that records in the above-named systems can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are subject to all the requirements of the Privacy Act.

(3) The provisions of the Act from which exemptions are claimed for the above-named systems of records are in general those providing for individual access to records. When such access would cause the identity of a confidential source to be revealed, it would impair the future ability of the Service to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal

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civilian employment, Federal contracts, or access to classified information. In addition, the systems are to be exempt from 5 U.S.C. 552a(e)(1), which requires that the agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a statutory or executive ordered purpose. The Service finds that to fulfill the requirements of 5 U.S.C. 552a(e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

(4) If any investigatory material contained in the above-named systems becomes involved in criminal or civil matters, exemptions of such material under 5 U.S.C. 552a (j)(2) or (k)(2) is hereby claimed.

(5) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(5) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a (d) (1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4) (G), (H), and (I)
5 U.S.C. 552a (f)

(f) *Exemption under 5 U.S.C. 552a(k)(6).*

(1) This paragraph applies to the following system of records maintained by the Internal Revenue Service, for which exemption is claimed under 5 U.S.C. 552a(k)(6): Recruiting, Examining and Placement Records 36.008

(2) Under 5 U.S.C. 552a(k)(6), the head of any agency may promulgate rules to exempt any system of records that is testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(3) The reason for exempting the above-named system is that disclosure of the material in the system would compromise the objectivity or fairness of the examination process.

(4) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(6) are as follows:

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5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4) (G), (H), and (I)
5 U.S.C. 552a (f)

(g) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a (j) or (k) which also is included in another system of records retains the same exempt status such information has in the system for which such exemption is claimed.

UNITED STATES CUSTOMS SERVICE

NOTICE OF EXEMPT SYSTEMS

In accordance with 5 U.S.C. 552a (j) and (k), general notice is hereby given of rulemaking pursuant to the Privacy Act of 1974 by the Commissioner, United States Customs Service, under authority delegated to him by the Secretary of the Treasury. The Commissioner, United States Customs Service, exempts the systems of records identified in the paragraphs below from certain provisions of the Privacy Act of 1974 as set forth in such paragraphs.

a. *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to the provisions of 5 U.S.C. 552a(j)(2), the Commissioner, United States Customs Service, hereby exempts certain systems of records, maintained by the United States Customs Service, from the provisions of 5 U.S.C. 552a(c) (3) and (4), (d) (1), (2), (3) and (4), (e)(1), (2), (3), (4)(G), (H) and (I), (5) and (8), (f) and (g).

1. *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(j)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph a. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the FEDERAL REGISTER:

00.285—Automated Index to Central Enforcement Files
00.270—Background—Record File of Non-Customs Employees
00.067—Bank Secrecy Act Reports File
00.037—Cargo Security Record System
00.053—Confidential Source Identification File
00.287—Customs Automated Licensing Information System (CALIS) [Proposed]
00.127—Internal Security Records System
00.129—Investigations Record System

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00.171—Pacific Basin Reporting Network

00.213—Seized Asset and Case Tracking System (SEACATS)

00.244—Treasury Enforcement Communications System (TECS)

2. *Reasons for exemptions*, (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The Customs Service believes that application of these provisions to the above-listed systems of records would give individuals an opportunity to learn whether they are of record either as suspects or as subjects of a criminal investigation; this would compromise the ability of the Customs Service to complete investigations and to detect and apprehend violators of the Customs and related laws in that individuals would thus be able (1) to take steps to avoid detection, (2) to inform co-conspirators of the fact that an investigation is being conducted, (3) to learn the nature of the investigation to which they are being subjected, (4) to learn the type of surveillance being utilized, (5) to learn whether they are only suspects or identified law violators, (6) to continue or resume their illegal conduct without fear of detection upon learning that they are not in a particular system of records, and (7) to destroy evidence needed to prove the violation.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f) (2), (3) and (5) enable individuals to gain access to records pertaining to them. The Customs Service believes that application of these provisions to the above-listed systems of records would compromise its ability to complete or continue criminal investigations and to detect and apprehend violators of the Customs and related criminal laws. Permitting access to records contained in the above-listed systems of records would provide individuals with significant information concerning the nature of the investigation, and this could enable them to avoid detection or apprehension in the following ways: (1) By discovering the collection of facts which would form the basis for their arrest, (2) by enabling them to destroy contraband or other evidence of criminal conduct which would form the basis for their arrest and, (3) by learning that the

criminal investigators had reason to believe that a crime was about to be committed, they could delay the commission of the crime or change the scene of the crime to a location which might not be under surveillance. Granting access to on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning criminal activity to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing law enforcement officer's established investigative tools and procedures. Further, granting access to investigative files and records could disclose the identity of confidential sources and other informers and the nature of the information which they supplied, thereby endangering the life or physical safety of those sources of information by exposing them to possible reprisals for having provided information relating to the criminal activities of those individuals who are the subjects of the investigative files and records; confidential sources and other informers might refuse to provide criminal investigators with valuable information if they could not be secure in the knowledge that their identities would not be revealed through disclosure of either their names or the nature of the information they supplied, and this would seriously impair the ability of the Customs Service to carry out its mandate to enforce the Customs criminal and related laws. Additionally, providing access to records contained in the above-listed systems of records could reveal the identities of undercover law enforcement officers who compiled information regarding individual's criminal activities, thereby endangering the life or physical safety of those undercover officers or their families by exposing them to possible reprisals.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in paragraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's

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statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The Customs Service believes that the reasons set forth in paragraph (b) above are equally applicable to this subparagraph and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The Customs Service believes that application of this provision to the above-listed systems of records would impair the ability of other law enforcement agencies to make effective use of information provided by the Customs Service in connection with the investigation, detection and apprehension of violators of the criminal laws enforced by those other law enforcement agencies. Making accountings of disclosure available to violators would alert those individuals to the fact that another agency is conducting an investigation into their criminal activities, and this could reveal the geographic location of the other agency's investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas or by destroying or concealing evidence which would form the basis for their arrest. In addition, providing violators with accountings of disclosure would alert those individuals to the fact that the Customs Service has information regarding their criminal activities and could inform those individuals of the general nature of that information; this, in turn, would afford those individuals a better opportunity to take appropriate steps to avoid detection or apprehension for violations of the Customs and related criminal laws.

(e) 5 U.S.C. 552a(c)(4) requires that an agency inform any person or other

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agency about any correction or notation of dispute made by the agency in accordance with 5 U.S.C. 552a(d) of any record that has been disclosed to the person or agency if an accounting of the disclosure was made. Since this provision is dependent on an individual's having been provided an opportunity to contest (seek amendment to) records pertaining to him, and since the above-listed systems of records are proposed to be exempted from those provisions of 5 U.S.C. 552a relating to amendments of records as indicated in paragraph (c) above, the Customs Service believes that this provision should not be applicable to the above-listed systems of records.

(f) 5 U.S.C. 552a(e)(4)(I) requires that an agency publish a public notice listing the categories of sources for information contained in a system of records. The Customs Service believes that application of this provision to the above-listed systems of records could compromise its ability to conduct investigations and to identify, detect and apprehend violators of the Customs and related criminal laws for the reasons that revealing sources for information could 1) disclose investigative techniques and procedures, 2) result in threatened or actual reprisal directed to informers by the subject under investigation, and 3) result in the refusal of informers to give information or to be candid with criminal investigators because of the knowledge that their identities as sources might be disclosed.

(g) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the Customs Service, there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the Customs Service; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early

stages of investigation, and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation, prove to have particular relevance to an enforcement program of the Customs Service. Further, not all violations of law discovered during a Customs Service criminal investigation fall within the investigative jurisdiction of the Customs Service; in order to promote effective law enforcement, it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The Customs Service should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction where that information comes to the attention of the Customs Service through the conduct of a lawful Customs Service investigation. The Customs Service therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(1).

(h) 5 U.S.C. 552a(e)(2) requires that an agency collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The Customs Service believes that application of this provision to the above-listed systems of records would impair the ability of the Customs Service to conduct investigations and to identify, detect and apprehend violators of the Customs and related criminal laws for the following reasons: (1) most information collected about an individual under criminal investigation is obtained from third parties such as witnesses and informers, and it is usually not feasible to rely upon the subject of the investigation as a source for information regarding his criminal activities, (2) an attempt to obtain information from the subject of a criminal investigation will often alert that individual to the existence of an investigation, thereby affording the individual an opportunity to attempt to conceal his criminal activities so as

to avoid apprehension, (3) in certain instances the subject of a criminal investigation is not required to supply information to criminal investigators as a matter of legal duty, and (4) during criminal investigations it is often a matter of sound investigative procedure to obtain information from a variety of sources in order to verify information already obtained.

(i) 5 U.S.C. 552a(e)(3) requires that an agency inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual; the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principal purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effects on the individual of not providing all or part of the requested information. The Customs Service believes that the above-listed systems of records should be exempted from this provision in order to avoid adverse effects on its ability to identify, detect and apprehend violators of the Customs and related criminal laws. In many cases information is obtained by confidential sources or other informers or by undercover law enforcement officers under circumstances where it is necessary that the true purpose of their actions be kept secret so as to not let it be known by the subject of the investigation or his associates that a criminal investigation is in progress. Further, if it became known that the undercover officer was assisting in a criminal investigation, that officer's life or physical safety could be endangered through reprisal, and, further, under such circumstances it may not be possible to continue to utilize that officer in the investigation. In many cases individuals for personal reasons would feel inhibited in talking to a person representing a criminal law enforcement agency but would be willing to talk to a confidential source or undercover officer who they believed was not involved in law enforcement activities. In addition, providing a source of information with written evidence that he was a source, as required by this

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provision, could increase the likelihood that the source of information would be the subject of retaliatory action by the subject of the investigation. Further, application of this provision could result in an unwarranted invasion of the personal privacy of the subject of the criminal investigation, particularly where further investigation would result in a finding that the subject was not involved in any criminal activity.

(j) 5 U.S.C. 552a(e)(5) requires that an agency maintain all records used by the agency in making any determination about any individual with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual in the determination. Since 5 U.S.C. 552a(a)(3) defines "maintain" to include "collect" and "disseminate," application of this provision to the above-listed systems of records would hinder the initial collection of any information which could not, at the moment of collection, be determined to be accurate, relevant, timely and complete. Similarly, application of this provision would seriously restrict the necessary flow of information from the Customs Service to other law enforcement agencies where a Customs Service investigation revealed information pertaining to a violation of law which was under the investigative jurisdiction of another agency. In collecting information during the course of a criminal investigation, it is not possible or feasible to determine accuracy, relevance, timeliness or completeness prior to collection of the information; in disseminating information to other law enforcement agencies it is often not possible to determine accuracy, relevance, timeliness or completeness prior to dissemination because the disseminating agency may not have the expertise with which to make such determinations. Further, information which may initially appear to be inaccurate, irrelevant, untimely or incomplete may, when gathered, grouped, and evaluated with other available information, become more pertinent as an investigation progresses. In addition, application of this provision could seriously impede criminal investigators and intelligence analysts in the

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exercise of their judgment in reporting on results obtained during criminal investigations. The Customs Service therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(5).

(k) 5 U.S.C. 552a(e)(8) requires that an agency make reasonable efforts to serve notice on an individual when any record on the individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The Customs Service believes that the above-listed systems of records should be exempt from this provision in order to avoid revealing investigative techniques and procedures outlined in those records and in order to prevent revelation of the existence of an on-going investigation where there is a need to keep the existence of the investigation secret.

(l) 5 U.S.C. 552a(g) provides civil remedies to an individual for an agency refusal to amend a record or to make a review of a request for amendment, for an agency refusal to grant access to a record, for an agency failure to maintain accurate, relevant, timely and complete records which are used to make a determination which is adverse to the individual, and for an agency failure to comply with any other provision of 5 U.S.C. 552a in such a way as to have an adverse effect on an individual. The Customs Service believes that the above-listed systems of records should be exempted from this provision to the extent that the civil remedies provided therein may relate to provisions of 5 U.S.C. 552a from which the above-listed systems of records are proposed to be exempt. Since the provisions of 5 U.S.C. 552a enumerated in paragraphs (a) through (k) above are proposed to be inapplicable to the above-listed systems of records for the reasons stated therein, there should be no corresponding civil remedies for failure to comply with the requirements of those provisions to which the exemption is proposed to apply. Further, the Customs Service believes that application of this provision to the above-listed systems of records would adversely affect its ability to conduct criminal investigations by exposing to civil court

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action every stage of the criminal investigative process in which information is compiled or used in order to identify, detect, apprehend and otherwise investigate persons suspected or known to be engaged in criminal conduct in violation of the Customs and related laws.

b. *Specific exemptions under 5 U.S.C. 552a(k) (2).* Pursuant to the provisions of 5 U.S.C. 552a(k)(2), the Commissioner, United States Customs Service, hereby exempts certain systems of records, maintained by the United States Customs Service, from the provisions of 5 U.S.C. 552a(c)(3), (d) (1), (2), (3) and (4), (e) (1) and (4) (G), (H) and (I) and (f).

1. *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(k)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph b. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the FEDERAL REGISTER:

00.014—Advice Requests (Legal) (Pacific Region)
00.021—Arrest/Seizure/Search Report and Notice of Penalty File
00.022—Attorney Case File
00.285—Automated Index to Central Enforcement Files
00.270—Background—Record File of Non-Customs Employees
00.067—Bank Secrecy Act Reports File
00.037—Cargo Security File
00.271—Cargo Security Record System
00.041—Cartmen or Lightermen
00.043—Case Files (Regional Counsel—South Central Region)
00.046—Claims Case File
00.053—Confidential Source Identification File
00.057—Container Station Operator Files
00.058—Cooperating Individual Files
00.061—Court Case File
00.069—Customhouse Brokers File (Chief Counsel)
00.287—Customs Automated Licensing Information System (CALIS)
00.077—Disciplinary Action and Resulting Grievances or Appeal Case Files
00.078—Disclosure of Information File
00.098—Fines, Penalties, and Forfeitures Records
00.099—Fines, Penalties, and Forfeiture Files (Supplemental Petitions)
00.100—Fines, Penalties, and Forfeiture Records (Headquarters)
00.122—Information Received File
00.125—Intelligence Log
00.127—Internal Security Records System

00.129—Investigations Record System
00.133—Justice Department Case File
00.138—Litigation Issue Files
00.140—Lookout Notice
00.155—Narcotics Suspect File
00.159—Notification of Personnel Management Division when an employee is placed under investigation by the Office of Internal Affairs.
00.171—Pacific Basin Reporting Network
00.182—Penalty Case File
00.186—Personal Search
00.190—Personal Case File
00.197—Private Aircraft/Vessel Inspection Reporting System
00.206—Regulatory Audits of Customhouse Brokers
00.212—Search/Arrest/Seizure Report
00.13—Seized Asset and Case Tracking System (SEACATS)
00.214—Seizure File
00.224—Suspect Persons Index
00.232—Tort Claims Act File
00.244—Treasury Enforcement Communications System (TECS)
00.258—Violator's Case Files
00.260—Warehouse Proprietor Files

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The Customs Service believes that application of these provisions (to those of the above-listed systems of records for which no notification procedures have been provided in the general notice of the existence and character of systems of records which appears elsewhere in the FEDERAL REGISTER) would impair the ability of the Customs Service to successfully complete investigations and inquires of suspected violators of civil and criminal laws and regulations under its jurisdiction. In many cases investigations and inquiries into violations of civil and criminal laws and regulations involve complex and continuing patterns of behavior. Individuals, if informed that they have been identified as suspected violators of civil or criminal laws and regulations, would have an opportunity to take measures to prevent detection of illegal action so as to avoid prosecution or the imposition of civil sanctions. They would also be able to learn the nature and location of the investigation or inquiry and the type of surveillance being utilized, and they would be able to transmit this knowledge to co-conspirators. Finally, violators might be given the opportunity to destroy evidence needed to prove the

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violation under investigation or inquiry.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f) (2), (3) and (5) enable individuals to gain access to records pertaining to them. The Customs Service believes that application of these provisions to the above-listed systems of records would impair its ability to complete or continue civil or criminal investigations and inquiries and to detect and apprehend violators of the Customs and related laws. Permitting access to records contained in the above-listed systems of records would provide violators with significant information concerning the nature of the civil or criminal investigation or inquiry. Knowledge of the facts developed during an investigation or inquiry would enable violators of criminal and civil laws and regulations to learn the extent to which the investigation or inquiry has progressed, and this could provide them with an opportunity to destroy evidence that would form the basis for prosecution or the imposition of civil sanctions. In addition, knowledge gained through access to investigatory material could alert a violator to the need to temporarily postpone commission of the violation or to change the intended point where the violation is to be committed so as to avoid detection or apprehension. Further, access to investigatory material would disclose investigative techniques and procedures which, if known, could enable violators to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing investigators' established and effective investigative tools and procedures. In addition, investigatory material may contain the identity of a confidential source of information or other informer who would not want his identity to be disclosed for reasons of personal privacy or for fear of reprisal at the hands of the individual about whom he supplied information. In some cases mere disclosure of the information provided by an informer would reveal the identity of the informer either through the process of elimination or by virtue of the nature of the information supplied. If informers cannot be assured that their identities (as sources for information) will remain

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confidential, they would be very reluctant in the future to provide information pertaining to violations of criminal and civil laws and regulations, and this would seriously compromise the ability of the Customs Service to carry out its mission. Further, application of 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f) (2), (3) and (5) to the above-listed systems of records would make available attorney's work product and other documents which contain evaluations, recommendations, and discussions of ongoing civil and criminal legal proceedings; the availability of such documents could have a chilling effect on the free flow of information and ideas within the Customs Service which is vital to the agency's predecisional deliberative process, could seriously prejudice the agency's or the Government's position in a civil or criminal litigation, and could result in the disclosure of investigatory material which should not be disclosed for the reasons stated above. It is the belief of the Customs Service that, in both civil actions and criminal prosecutions, due process will assure that individuals have a reasonable opportunity to learn of the existence of, and to challenge, investigatory records and related materials which are to be used in legal proceedings.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in subparagraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The Customs Service believes that the reasons set forth in subparagraph (b) above are equally applicable to this subparagraph, and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the

date, nature and purpose of each disclosure of a record and the name and address of the recipient. The Customs Service believes that application of this provision to the above-listed systems of records would impair the ability of the Customs Service and other law enforcement agencies to conduct investigations and inquiries into civil and criminal violations under their respective jurisdictions. Making accountings available to violators would alert those individuals to the fact that the Customs Service or another law enforcement authority is conducting an investigation or inquiry into their activities, and such accountings could reveal the geographic location of the investigation or inquiry, the nature and purpose of the investigation or inquiry and the nature of the information disclosed, and the dates on which that investigation or inquiry was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, transferring their activities to other locations or destroying or concealing evidence which would form the basis for prosecution or the imposition of civil sanctions.

(e) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the Customs Service there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the Customs Service; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of investigation or inquiry, and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation or inquiry, prove to have particular relevance to an enforcement program of the Customs Service. Fur-

ther, not all violations of law uncovered during a Customs Service investigation or inquiry fall within the civil or criminal jurisdiction of the Customs Service; in order to promote effective law enforcement it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The Customs Service should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction where that information comes to the attention of the Customs Service through the conduct of a lawful Customs Service civil or criminal investigation or inquiry. The Customs Service therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(1).

c. *Specific exemptions under 5 U.S.C. 552a(k)(5)*. Pursuant to the provisions of 5 U.S.C. 552a(k)(5), the Commissioner, United States Customs Service, hereby exempts the *Internal Security Records System* from the provisions of 5 U.S.C. 552a (c)(3), (d) (1), (2), (3) and (4), (e) (1) and (4) (G), (H) and (I) and (f). The records maintained in the exempt system of records are of the type described in 5 U.S.C. 552a(k)(5): "investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence."

Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are subject to all the requirements of 5 U.S.C. 552a, except where those records contain other information which is exempt under the

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provisions of 5 U.S.C. 552a(k)(2) for the reasons stated under paragraph b. above.

The sections of 5 U.S.C. 552a from which this system of records is exempt include in general those providing for individuals' access to or amendment of records. When such access or amendment would cause the identity of a confidential source to be revealed, it would impair the future ability of the Customs Service to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information.

In addition, the systems shall be exempt from 5 U.S.C. 552a(e)(1) which requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The Customs Service believes that to fulfill the requirements of 5 U.S.C. 552a(e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

If any investigations within the scope of 5 U.S.C. 552a(k)(5) become involved with civil or criminal matters, exemptions from 5 U.S.C. 552a could also be asserted under 5 U.S.C. 552a (k)(2) or (j)(2).

UNITED STATES SECRET SERVICE

Notice of rules exempting certain systems from requirements of the Privacy Act

(a) *In general.* The Director of the U.S. Secret Service hereby issues rules exempting the Criminal Investigation Information System of records, the Non-Criminal Investigation Information System of records, and the Protection Information System of records from the provisions of certain subsections of 5 U.S.C. 552a, the Privacy Act of 1974. The purpose of the exemptions is to maintain the confidentiality of information compiled for the purpose of criminal, non-criminal, and protective investigations.

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(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552a (j) and (k) and pursuant to the authority vested in the Director, U.S. Secret Service by paragraph 123(c) of subpart C of part 1 of subtitle A of title 31 of the Code of Federal Regulations.

(c) *Exempted Systems.*

I. U.S. SECRET SERVICE CRIMINAL INVESTIGATION INFORMATION SYSTEM

The Criminal Investigation Information System is further described in "Notices of Records Systems" published by the General Services Administration.

(1) *Provisions from which exempted.* The Criminal Investigation Information System maintained by the Secret Service contains records described in 5 U.S.C. 552a(j) and (k), the Privacy Act of 1974. Exemptions are claimed for such described records only where appropriate from the following provisions of the Privacy Act of 1974 subsections (c) (3) and (4); (d) (1), (2), (3) and (4); (e) (1), (2), and (3); (e) (4) (G), (H) and (I); (e) (5) and (8); (f) and (g) of 5 U.S.C. 552a.

(2) *Reasons for claimed exemptions.* a. 5 U.S.C. 552a(c)(3): This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the record at his request. The reasons why the Criminal Investigation Information System is exempted from the foregoing provision are as follows:

(i) The release of accounting disclosures would put the subject of a criminal investigation on notice of the existence of an investigation and that he is the subject of that investigation;

(ii) It would provide the subject of a criminal investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. Obviously, the release of such information to the subject of a criminal investigation would provide him with significant information concerning the nature of the investigation and could result in impeding or compromising

the efforts of law enforcement personnel to detect and arrest persons suspected of criminal activity;

(iii) Disclosure to the individual of the disclosure accounting after the investigation is closed would alert the individual as to which agencies were investigating him and would put him on notice concerning the scope of his suspected criminal activities and could aid him in avoiding detection and apprehension.

b. 5 U.S.C. 552a (c)(4); (d); (e)(4) (G) and (H); (f) and (g): The foregoing provisions of the Privacy Act relate to an individual's right to notification of the existence of records pertaining to him and access to such records; the agency procedures relating to notification, access and contest of the information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. The reasons why the Criminal Investigation Information System of records is exempted from the foregoing provisions are as follows:

(i) To notify an individual at his request of the existence of records pertaining to him in the Criminal Investigation Information System would inform the individual of the existence of an investigation and that he is the subject of that investigation. This would enable the individual to avoid detection and would further enable him to inform co-conspirators of the fact that an investigation is being conducted;

(ii) To permit access to the records contained in the Criminal Investigation Information System would not only inform an individual that he is or was the subject of a criminal investigation, but would also provide him with significant information concerning the nature of the investigation which might enable him to avoid detection or apprehension;

(iii) To grant access to an on-going or closed criminal investigative file could interfere with Secret Service investigative and enforcement proceedings, deprive co-defendants of a right to a fair trial or an impartial adjudication, constitute an unwarranted invasion of the personal privacy of others, disclose the identity of confidential sources and re-

veal confidential information supplied by such sources, and disclose investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel, informants, witnesses, and other persons supplying information to investigators.

c. 5 U.S.C. 552a(e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records, in each system of records. The reasons why the Criminal Investigation Information System of records is exempted from the foregoing provision are as follows:

(i) Revealing sources of information could disclose investigative techniques and procedures;

(ii) Revealing sources of information could result in retaliation and threat of reprisal by the subject under investigation against such sources;

(iii) Revealing sources of information could cause witnesses, informants and others who supply information to criminal investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality;

(iv) Revealing sources of information could result in the refusal of some sources to give full and complete information or to be candid with investigators because of the knowledge that the identity of such sources may be disclosed.

d. 5 U.S.C. 552a(e)(1): This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency. The reasons why the Criminal Investigation Information System of records is exempted from the foregoing provisions are as follows:

(i) In a criminal investigation it is difficult to accurately determine the relevancy and necessity of information during the process of information gathering. Only after the information is evaluated can the relevancy and necessity of such information be ascertained;

(ii) In a criminal investigation, the Secret Service often obtains information concerning the violations of laws other than those within the scope of its criminal investigative jurisdiction. In

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the interest of effective law enforcement, the Secret Service should retain this information as it may aid in establishing patterns of criminal activity, and provide valuable leads for those law enforcement agencies charged with enforcing other segments of the criminal law;

(iii) In interviewing persons, or obtaining other forms of evidence during a criminal investigation, information will be supplied to the investigator which relates to matters which are ancillary to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information is not readily susceptible to segregation.

e. 5 U.S.C. 552a(e)(2): This provision of the Privacy Act requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's right, benefits and privileges under Federal programs. The reasons why the Criminal Investigation Information System is exempted from the foregoing provision are as follows:

(i) In certain instances, the subject of a criminal investigation is not required to supply information to investigators as a matter of legal right. In those instances, information relating to a subject's criminal activities must be obtained from other sources;

(ii) A requirement that information be collected from an individual who is the subject of a criminal investigation would put the individual on notice of the existence of the investigation and could enable him to avoid detection or apprehension;

(iii) In a criminal investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to accumulate and verify the evidence necessary for the successful prosecution of persons suspected of violating the criminal laws.

f. 5 U.S.C. 552a(e)(3): This provision of the Privacy Act requires an agency to inform each individual whom it asks to supply information of the authority which authorizes the solicitation of the information and whether disclosure of

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such information is mandatory or voluntary; the principal purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effect on the individual of not providing the requested information. The reasons why the Criminal Investigation Information System is exempted from the foregoing provision are as follows:

(i) Informing each individual who is asked to supply information in a criminal investigation of the information required under the foregoing provision could inform the individual of the existence of a confidential investigation; reveal the identity of confidential sources of information; and endanger the life or physical safety of confidential informants;

(ii) Informing each individual who is asked to supply information in a criminal investigation of the information required under the foregoing provision could result in an unwarranted invasion of the privacy of individuals who may be the subject of a criminal investigation or who are suspected of engaging in criminal activity;

(iii) Informing each individual who is asked to supply information in a criminal investigation of the information required under the foregoing provision would inhibit such individuals from supplying the requested information and thereby present a serious impediment to the successful investigation and prosecution of violations of the criminal law.

g. 5 U.S.C. 552a(e)(5): This provision of the Privacy Act requires an agency to maintain all records which are used in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. The reasons why the Criminal Investigation Information System is exempted from the foregoing provisions are as follows:

(i) In gathering information during the course of a criminal investigation it is usually not possible to determine in advance what information is accurate, relevant, timely, and complete. Seemingly nonrelevant or untimely information may acquire new significance as an investigation progresses;

(ii) The restrictions on the maintenance of the records contained in the foregoing provision could impede investigators and intelligence analysts in the exercise of their judgment and discretion in reporting on criminal investigations;

(iii) Compliance with the records maintenance criteria listed in the foregoing provision could require the periodic up-dating of Secret Service criminal investigations to insure that the records maintained in the system remain timely and complete.

h. 5 U.S.C. 552a(e)(8): This provision of the Privacy Act requires an agency to make reasonable efforts to serve notice to an individual when any record on such individual is made available to any person under compulsory legal process becomes a matter of public record. The reasons why the Criminal Investigation Information System is exempted from the foregoing provision are as follows:

(i) The notice requirement of the foregoing provision could impede law enforcement by revealing investigative techniques and procedures;

(ii) The notice requirement of the foregoing provision could reveal the existence of confidential investigations to individuals who are the subjects of such investigations.

i. The foregoing exemptions are claimed for materials maintained in the Criminal Investigation Information System to the extent that such materials contain information and reports described in 5 U.S.C. 552a(j) (2). Further, records maintained in the Criminal Investigation Information System described in 5 U.S.C. 552a(k) are exempted from subsections (c)(3), (d) (1), (2), (3) and (4), (e)(1), (e)(4) (G), (H) and (I) and (f) of 5 U.S.C. 552a for the reasons previously stated.

II. U.S. SECRET SERVICE NON-CRIMINAL INVESTIGATION INFORMATION SYSTEM

The Non-Criminal Investigation Information System is further described in "Notices of Records Systems" published by the General Services Administration.

(1) Provisions from which exempted: The Non-Criminal Investigation Information System maintained by the Secret Service contains records similar

to those described in 5 U.S.C. 552a(k), the Privacy Act of 1974. Exemptions are claimed for such described records where appropriate from the following provisions of the Privacy Act of 1974: subsections (c)(3), (d) (1), (2), (3) and (4), (e)(1), (e)(4) (G), (H) and (I) and (f) of 5 U.S.C. 552a.

(2) *Reasons for claimed exemptions.* a. 5 U.S.C. 552a(c)(3): This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the record at his request. The reasons why the Non-Criminal Investigation Information System is exempted from the foregoing provision are as follows:

(i) The release of accounting disclosures would put the subject of an investigation on notice of the existence of an investigation and that he is the subject of that investigation;

(ii) It would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. Obviously, the release of such information to the subject of an investigation would provide him with significant information concerning the nature of the investigation and could result in impeding or compromising the efforts of law enforcement personnel to obtain information essential to the successful conclusion of the investigation;

(iii) Disclosure to the individual of the disclosure accounting after the investigation is closed would alert the individual as to which agencies were investigating him; put him on notice concerning the scope of his suspected activities and reveal investigatory techniques and the identity of confidential informants. It could result in an invasion of privacy of private citizens who provide information in connection with a particular investigation.

b. 5 U.S.C. 552a; (d), (e)(4) (G), (H) and (f): The foregoing provisions of the Privacy Act relate to an individual's right to notification of the existence of records pertaining to him and access to such records and the agency procedures relating to notification, access and contest of the information contained in

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such records. The reasons why the Non-Criminal Investigation Information System of records is exempted from the foregoing provisions are as follows:

(i) To notify an individual at his request of the existence of records pertaining to him in the Non-Criminal Investigation Information System would inform the individual of the existence of an investigation and that he is the subject of that investigation. This could enable the individual to secrete or destroy evidence essential to the successful completion of the investigation;

(ii) To permit access to the records contained in the Non-Criminal Investigation System would not only inform an individual that he is or was the subject of an investigation, but would also provide him with significant information concerning the nature of the investigation which might enable him to avoid detection or apprehension;

(iii) To grant access to an on-going or closed non-criminal investigative file would interfere with Secret Service investigative and enforcement proceedings; deprive other parties involved in the investigations of a right to a fair trial or an impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by such sources; and disclose investigative techniques and procedures.

c. 5 U.S.C. 552a 3 (e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. The reasons why the Non-Criminal Investigation Information System of records is exempted from the foregoing provision are as follows:

(i) Revealing sources of information would disclose investigative techniques and procedures;

(ii) Revealing sources of information would result in retaliation and threat of reprisal by the subject under investigation against such sources;

(iii) Revealing sources of information could cause witnesses, informants and others who supply information to investigators to refrain from giving such information because of fear of reprisal,

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or fear of breach of promises of anonymity and confidentiality;

(iv) Revealing sources of information could result in the refusal of some sources to give full and complete information or to be candid with investigators because of the knowledge that the identity of such sources may be disclosed.

d. 5 U.S.C. 552a(e)(1): This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency. The reasons why the Criminal Investigation Information System of records is exempted from the foregoing provision are as follows:

(i) In a non-criminal investigation it is difficult to determine accurately the relevancy and necessity of information during the process of information gathering. It is only after the information is evaluated that the relevancy and necessity of such information can be ascertained;

(ii) In a non-criminal investigative case, the Secret Service often obtains information concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, it is desirable that the Secret Service retain this information since it can aid in establishing patterns of unlawful activity and provide valuable leads for those law enforcement agencies that are charged with enforcing other segments of the criminal, regulatory and civil laws;

(iii) In interviewing persons, or obtaining other forms of evidence during an investigation, information will be supplied to the investigator which relates to matters which are ancillary to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information is not readily susceptible to segregation.

e. The foregoing exemptions are claimed for records maintained in the Non-Criminal Investigation Information System only to the extent that such records contain materials described in subsection (k) of 5 U.S.C. 552a, the Privacy Act of 1974.

III. U.S. SECRET SERVICE PROTECTION
INFORMATION SYSTEM

The Protection Information System is further described in "Notices of Records Systems" published by the General Services Administration.

(1) *Provisions from which exempted.* The Protection Information System maintained by the Secret Service contains records similar to those described in 5 U.S.C. 552a (j) and (k), the Privacy Act of 1974. The Protection Information System contains material relating to criminal investigations concerned with the enforcement of criminal statutes involving the security of persons and property. Further, this system contains records described in 5 U.S.C. 552a(k) including, but not limited to, classified materials and investigatory material compiled for law enforcement purposes. There are maintained in the Protection Information System, in addition to the categories of records described above, records which are considered necessary to assuring the safety of individuals protected by the Secret Service Pursuant to the provisions of 18 U.S.C. 3056 and Pub. L. 90-331 (5 U.S.C. 522a(k)(3)). Exemptions are claimed for the above described records only where appropriate from the following provisions of the Privacy Act of 1974: subsections (c)(3) and (d) (1), (2), (3) and (4); (e) (1), (2) and (3); (e)(4) (G), (H) and (I); (e) (5) and (8); (f) and (g) of 5 U.S.C. 552a.

(2) *Reasons for claimed exemptions.* a. 5 U.S.C. 552a(c)(3): This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the record at his request. The reasons why the Protection Information System is exempted from the foregoing provision are as follows:

(i) The release of accounting disclosures would put the subject of a protective intelligence file on notice of the existence of an investigation and that he is the subject of that investigation;

(ii) It would provide the subject of a protective intelligence file with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. Obviously, the release of such informa-

tion to the subject of a protective intelligence file would provide him with significant information concerning the nature of the investigation, and could result in impeding or compromising the efforts of Secret Service personnel to detect persons suspected of criminal activities or to collect information necessary for the proper evaluation of persons considered to be of protective interest;

(iii) Disclosures of the disclosure accounting after the protective intelligence file is closed would alert the individual as to which agencies were investigating him and would put him on notice concerning the scope of the protective intelligence investigation and could aid him in avoiding detection.

b. 5 U.S.C. 552a (c)(4); (d); (e)(4) (G) and (H); (f) and (g): The foregoing provisions of the Privacy Act relate to an individual's right to notification of the existence of records pertaining to him and access to such records; the agency procedures relating to notification; access and contest of the information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. The reasons why the Protection Information System of records is exempted from the foregoing provisions are as follows:

(i) To notify an individual at his request of the existence of records pertaining to him in the Protection Information System would be injurious to the protective intelligence activities of the Secret Service if the existence of files on the subject were even acknowledged. Granting access to the criminal and the unstable person would necessarily lead to knowledge of the sources of Secret Service information and could endanger other enforcement and intelligence operations and confidential sources including co-workers, friends and relatives of the subjects of such records;

(ii) Limitation on access to the materials contained in the Protection Information System is considered necessary to the preservation of the utility of intelligence files and in safeguarding

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those persons the Secret Service is authorized to protect. Without such denial of access the Protection Information System could adversely effect in the poor quality of information available; in compromised confidential sources; in the inability to keep track of persons of protective interest; and from interference with Secret Service protective intelligence activities by individuals gaining access to protective intelligence files. Many of the persons on whom records are maintained in the Protection Information System suffer from mental aberrations. Knowledge of their condition and progress comes from authorities, family members and witnesses. Many times this information comes to the Secret Service as a result of two party conversations where it would be impossible to hide the identity of informants. Sources of information must be developed, questions asked and answers recorded. Trust must be extended and guarantees of confidentiality and anonymity must be maintained. Allowing access of information of this kind to individuals who are the subjects of protective interest may well lead to violence directed against an informant by a mentally disturbed individual;

(iii) Permitting access to protective intelligence files would reveal techniques and procedures, not only of Secret Service protective investigations but could reveal the criteria by which protective intelligence subjects are evaluated;

(iv) To notify an individual at his request of the existence of records pertaining to him in the Protection Information System would inform the individual of the existence of an investigation and that he is the subject of protective interest. This would enable the individual to avoid detection and would further enable him to inform co-conspirators of the fact that an investigation is being conducted;

(v) To permit access to the records contained in the Protection Information System would not only inform an individual that he is or was the subject of protective interest, but would also provide him with significant information concerning the nature of any investigation concerning his activities;

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(vi) To grant access to current or closed protective intelligence files would interfere with Secret Service investigative and enforcement proceedings; deprive co-defendants of a right to a fair trial or an impartial adjudication; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources; reveal confidential information supplied by such sources; and disclose investigative techniques and procedures, and endanger the life or physical safety of law enforcement personnel, informants, witnesses, and other persons supplying information to investigators.

c. 5 U.S.C. 552a(e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. The reasons why the Protection Information System of records is exempted from the foregoing provision are as follows:

(i) Revealing sources of information would disclose investigative techniques and procedures;

(ii) Revealing sources of information would result in retaliation and threat of reprisal by the subject of a protective intelligence file;

(iii) Revealing sources of information would cause witnesses, informants and others who supply information to Secret Service investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality;

(iv) Revealing sources of information would result in the refusal of some sources to give full and complete information or to be candid with investigators because of the knowledge that the identity of such sources may be disclosed.

d. 5 U.S.C. 552a(e)(1): This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency. The reasons why the Protection Information System of records is exempted from the foregoing provisions are as follows:

(i) In gathering protective intelligence information it is difficult to determine accurately the relevancy and

necessity of information during the process of information gathering. It is only after the information is evaluated that the relevancy and necessity of such information can be ascertained;

(ii) In carrying out protective intelligence responsibilities the Secret Service often obtains information concerning the violation of laws other than those within the scope of its protective intelligence jurisdiction. In the interest of effective law enforcement, it is desirable that the Secret Service retain this information since it can aid in establishing patterns of criminal activity and provide valuable leads for those law enforcement agencies that are charged with enforcing other segments of the criminal law;

(iii) During protective intelligence investigations, information will be supplied to the investigator which relates to matters which are ancillary to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information is not readily susceptible to segregation.

e. 5 U.S.C. 552a(c)(2): This provision of the Privacy Act requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits and privileges under Federal programs. The reasons why the Protection Information System is exempted from the foregoing provision are as follows:

(i) In certain instances, where the protective intelligence subject is suspected of criminal activity, he is not required to supply information to investigators as a matter of legal right. In those instances, information relating to a subject's criminal activities must be obtained from other sources;

(ii) A requirement that information be collected from an individual who is of protective interest would put the individual on notice of the existence of the intelligence investigation and such knowledge would enable him to avoid detection in the event that the individual attempted to physically harm persons protected by the Secret Service;

(iii) In a protective intelligence investigation where the subject of the in-

vestigation is suspected of engaging in criminal activities it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to accumulate and verify the evidence necessary for the successful prosecution of persons suspected of violating the criminal laws.

f. 5 U.S.C. 552a(e)(3): This provision of the Privacy Act requires an agency to inform each individual whom it asks to supply information of the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principle purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effect on the individual of not providing the requested information. The reasons why the Protection Information System is exempted from the foregoing provision are as follows:

(i) Informing each individual who is asked to supply information in a protective intelligence investigation of the information required under the foregoing provision would inform the individual of the existence of a confidential investigation; reveal the identity of confidential sources of information; and endanger the life or physical safety of confidential informants;

(ii) Informing each individual who is asked to supply information in a protective intelligence investigation of the information required under the foregoing provision would result in an unwarranted invasion of the privacy of individuals who may be the subject of a criminal investigation or who are suspected of engaging in criminal activity;

(iii) Informing each individual who is asked to supply information in a protective intelligence investigation of the information required under the foregoing provision would inhibit such individuals from supplying the requested information and thereby present a serious impediment to the success of the Secret Service in carrying out its protective intelligence activities.

g. 5 U.S.C. 552a(e)(5): This provision of the Privacy Act requires an agency to maintain all records which are used

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in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. The reasons why the Protection Information System is exempted from the foregoing provisions are as follows:

(i) In gathering information during the course of a protective intelligence investigation it is usually not possible to determine in advance what information is accurate, relevant, timely, and complete. Seemingly nonrelevant or untimely information may acquire new significance as an investigation progresses;

(ii) The restrictions on the maintenance of the records contained in the foregoing provision would impede investigators and intelligence analysts in the exercise of their judgment and discretion in reporting on protective intelligence subjects;

(iii) Compliance with the records maintenance criteria listed in the foregoing provision would require the periodic up-dating of Secret Service protective intelligence files to insure that the records maintained in the system remain timely and complete.

h. 5 U.S.C. 552a(e)(8): This provision of the Privacy Act requires an agency to make reasonable efforts to serve notice to an individual when any record on such individual is made available to any person under compulsory legal process becomes a matter of public record. The reasons why the Protection Information System is exempted from the foregoing provision are as follows:

(i) The notice requirement of the foregoing provision could impede Secret Service protective efforts by revealing techniques and procedures;

(ii) The notice requirements of the foregoing provision could reveal the existence of confidential investigations to individuals who are the subjects of such investigations.

i. The foregoing exemptions are claimed for materials maintained in the Protection Information System to the extent that such materials contain information and reports described in 5 U.S.C. 552a(j)(2). Further, records maintained in the Protection Information System described in 5 U.S.C. 552a(k)

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are to be exempted from subsections (c)(3), (d) (1), (2), (3) and (4); (e)(1), (e)(4) (G), (H) and (I) and (f) of 5 U.S.C. 552a for the reasons previously stated.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

NOTICE OF SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE PRIVACY ACT OF 1974

In accordance with 5 U.S.C. 552a (j) and (k), general notice is hereby given of rulemaking under the Privacy Act of 1974 by the Director, Bureau of Alcohol, Tobacco and Firearms. The Director, Bureau of Alcohol, Tobacco and Firearms, exempts the systems of records identified in paragraphs (a), (b) and (c) of this section from certain provisions of the Privacy Act of 1974 as set forth in such paragraphs.

EXEMPTIONS

(a) *General exemptions.* Under the provisions of 5 U.S.C. 552a(j), the Director, Bureau of Alcohol, Tobacco and Firearms, hereby determines that certain provisions of the Privacy Act of 1974 shall not apply to the *Treasury—ATF Criminal Investigation Report System*.

(1) The Privacy Act of 1974 creates several methods by which individuals who are of record in this system of records may discover information collected about their criminal activities. These methods are as follows: subsections (e)(4)(G) and (f)(1) allow individuals to ascertain whether their criminal activities have been recorded; subsections (d)(1), (e)(4)(H), and (f) (2), (3) and (5) establish the ability of individuals to gain access into the investigatory files maintained on their criminal activities; subsections (d) (2), (3) and (4), (e)(4)(H), and (f)(4) pre-suppose access and further enable individuals to contest the contents of their criminal files; subsection (c)(3) allows individuals to discover if other law enforcement agencies are investigating their criminal activities and subsection (e)(4)(I) discloses the categories of sources of records in the system. Since these subsections are variations upon the criminal subjects' ability to ascertain whether a Federal law enforcement agency has uncovered their criminal misdeeds, these subsections

have been grouped together for purposes of this notice.

(A) With respect to subsections (e)(4)(G) and (f)(1), the Bureau of Alcohol, Tobacco and Firearms believes that imposition of these requirements would identify to individuals the fact that they are of record, and in so doing, compromise the ability of ATF to successfully complete an investigation into violations of law. Where individuals have the ability to discover the location and specific character of their investigative records in this system, they will be able to determine the nature of the investigation, the type of surveillance utilized and the precise stage of the investigation into their criminal activities. When individuals can determine that the investigation into their criminal activities has been closed, they are placed on notice that they may safely resume their illegal conduct. For these reasons, ATF seeks exemption of this system from subsections (e)(4)(G) and (f)(1).

(B) With respect to subsections (d)(1), (e)(4)(H) and (f) (2), (3) and (5), the Bureau of Alcohol, Tobacco and Firearms believes that access into criminal investigative files poses present and future dangers on the ability of this agency to effectively enforce the criminal laws committed to its administration. Where individuals may break into an ongoing criminal investigative file they discover the collection of facts which will form the basis of their arrests. Knowledge of these facts enables them to destroy valuable contraband or other evidence of their activities prior to lawful seizure and thereby prevent enforcement proceedings. The ongoing investigative file may reveal that reasonable cause exists to believe that a crime is about to be committed. Disclosure of these facts enable individuals with criminal intent to either postpone the commission of their criminal acts or relocate the scene of the crime to an alternatively acceptable location where Federal agents will not be anticipated. After a criminal investigation has been closed, information in the file nevertheless reveals to the investigated subjects the techniques and procedures utilized by a law enforcement agency. Knowledge of these investigative techniques and pro-

cedures by individuals and groups devoted to crime enables them to structure their future operations in such a way as to place these activities beyond discovery until after the crime has been committed. Thus, the ability of Federal agents to prevent crime by apprehension of the criminals at the precise moment of commission of the criminal act is seriously jeopardized.

Disclosure of investigative techniques and procedures could further render the commission of the criminal act itself not susceptible to reconstruction and tracing to its originator. Armed with a knowledge of forensic science and the applied technology of criminal investigation contained in their own files, individuals and groups of individuals devoted to crime have the necessary information to develop counter-techniques which may effectively neutralize established investigative tools and procedures. Additionally, a closed criminal file reveals the identities of informers and undercover agents who have possibly risked their lives and the lives of their families by contributing information concerning the criminal activities of individuals and groups. Oftentimes, friends, family, neighbors and business associates of the subject under investigation, secure in the assured anonymity of a Federal criminal investigation, are not afraid to furnish valuable information relating to the criminal activities of the subjects of investigation. Where criminal subjects have access to the confidential information in their criminal files (with or without the identities of the sources) they can determine from the nature of the information and by process of elimination the identity of those individuals against whom to retaliate. This legitimate fear of reprisal exists in the minds of neighbors, relatives, and co-workers, especially with regard to individuals who are violence-prone or emotionally unstable. As a direct result of this fear of discovery through access to the investigative file, sources close to the criminal subject would decline to be interviewed or otherwise refrain from contact with the Bureau. This absence of information would render the Bureau unable to comply effectively with the mandates of the statutes committed to its administration. For these

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reasons, ATF seeks exemption of this system from subsections (d)(1), (e)(4)(H) and (f) (2), (3) and (5).

(C) With respect to subsections (d) (2), (3) and (4), (e)(4)(H), and (f)(4), which presuppose access and provide for contest of the content of records contained in this system, the Bureau of Alcohol, Tobacco and Firearms believes that the reasons set forth in subparagraph (B) of paragraph (1) of this subsection are equally applicable to this subparagraph, and are hereby incorporated by reference. For these reasons, ATF seeks exemption of this system from subsections (d) (2), (3) and (4), (e)(4)(H) and (f)(4).

(D) With respect to subsection (c)(3) which provides for making the accounting of disclosures available to the requester, the Bureau of Alcohol, Tobacco and Firearms believes that access to this accounting by a subject under investigation would impair the ability of other law enforcement agencies to utilize information developed by ATF for their investigations into violations of criminal laws not enforced by ATF. Where the interstate criminal activities of individuals or groups span the jurisdictions of several law enforcement agencies, information will be shared by these agencies in their attempts to bring these violators to justice. Disclosure of the accounting will alert such individuals to which agencies are conducting investigations, the geographic locations of such investigations, the nature and purpose of the investigations, and the date during which the investigation received information maintained by ATF. Supplied with this information, individuals or groups may ascertain which of their criminal activities have been discovered and the law enforcement agencies which are in current pursuit. For these reasons, ATF seeks exemption of this system from subsection (c)(3).

(E) With respect to subsection (e)(4)(I), which requires publication of the categories of sources for a record system, the Bureau of Alcohol, Tobacco and Firearms believes that imposition of subsection (e)(4)(I) upon this system would reveal investigative techniques and procedures. For this reason, ATF seeks exemption of this system from subsection (e)(4)(I).

(2) The Privacy Act of 1974 provides, at subsection (e)(1), that an agency may maintain only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by a statute or executive order of the President. The term "maintain" is defined in the Privacy Act to include the initial collection of information. The Bureau of Alcohol, Tobacco and Firearms believes that exemption of this system from subsection (e)(1) is appropriate because not all violations uncovered in an investigation are capable of enforcement by ATF. Where individuals or groups are engaged in a multiplicity of criminal violations, this evidence should be recorded by ATF and transferred to the appropriate law enforcement agencies. This Bureau should not and cannot legally ignore violations of law uncovered in a lawful ATF investigation merely because ATF has no authority to bring the criminal to justice for these non-ATF violations. Where other agencies uncover evidence of ATF violations, this information must be susceptible to collection and preservation by that agency for subsequent use by ATF. Where an investigation by ATF uncovers only ATF violations, information may initially appear irrelevant and unnecessary when collected. However, a later stage of the investigation may uncover additional facts which when placed together with the initially collected irrelevant information, form the basis for reasonable cause to believe that additional suspects are involved or additional crimes have been or are being committed. Until all facts have been gathered and evaluated at the conclusion of the investigation it may not be possible to determine relevancy and necessity. For these reasons, ATF seeks exemption of this system from subsection (e)(1).

(3) The Privacy Act of 1974 provides at subsection (e)(2) that an agency must collect information to the greatest extent practicable directly from the subject individual. The Bureau of Alcohol, Tobacco and Firearms believes that this system should be exempted from subsection (e)(2) because most information gathered upon a subject under investigation is obtained

from third parties and witnesses. There is a minimal degree of practicability in contacting a criminal subject for purposes of seeking information as to his criminal activities. Such contact alerts the individual that he is under investigation and affords him opportunity to conceal his criminal activities or otherwise avoid detection or apprehension. In certain instances, the subject of a criminal investigation is not required to supply information to investigators as a matter of legal right. Law violators seldom give self-incriminatory information about their involvement in criminal activities. In those instances, information relating to the subject's criminal activities must be obtained from other sources. For these reasons, ATF seeks exemption of this system from subsection (e)(2).

(4) The Privacy Act of 1974 provides at subsection (e)(3) that each individual must be informed of the authority, principle purposes, and routine uses and effects on the individual when requested to provide information. The Bureau of Alcohol, Tobacco and Firearms believes that this system should be exempted from subsection (e)(3). When information is obtained by undercover officers, conformity to (e)(3) discloses their identity as agents of a law enforcement authority and thereby impairs their physical safety as well as the successful conclusion of the investigation. When presented with a written statement complying with (e)(3) by special agents acting in undercover capacity, the individual may not thereafter be completely open with such agents. For these reasons, ATF seeks exemption of this system from subsection (e)(3).

(5) The Privacy Act of 1974 provides at subsection (e)(5) that an agency maintain all records which are used in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Since the law defines "maintain" to include collection of information, the Bureau of Alcohol, Tobacco and Firearms believes that this system should be exempt from subsection (e)(5) because it would prohibit the initial collection of any data not shown to be ac-

curate, relevant, timely or complete at the moment of its collection. In gathering information during the course of a criminal investigation it is not feasible or possible to determine completeness, accuracy, timeliness or relevancy prior to collection of the information. Facts are first gathered then placed into a cohesive order which objectively proves or disproves criminal behavior on the part of a suspect. Seemingly irrelevant, untimely and incomplete information when gathered may acquire new significance as an investigation progresses. The restrictions of (e)(5) could impede special agents in the preparation of a complete investigative report. For these reasons, ATF seeks exemption of this system from subsection (e)(5).

(6) The Privacy Act of 1974 provides, at subsection (e)(8), that an agency must make reasonable efforts to serve notice on an individual when his records are made available pursuant to compulsory legal process, when such process becomes a matter of public record. Such a requirement would impose unnecessary and unusual administrative demands on the Bureau of Alcohol, Tobacco and Firearms by requiring a record system to follow up on legal process emanating from court proceedings to which ATF is not a party. The Bureau of Alcohol, Tobacco and Firearms believes the duty of serving notice in such a case properly rests with the moving party who seeks disclosure by utilization of the court's compulsory legal process. Further, in most cases where an individual's criminal records have been disclosed pursuant to compulsory legal process, the individual who is the subject of the records will be a party to the proceedings and will have actual notice of the disclosure. For these reasons, ATF seeks exemption of this system from subsection (e)(8).

(7) The Privacy Act of 1974 provides, at subsection (g), civil remedies for agency failure to grant access, agency failure to amend records, agency failure to maintain accurate, relevant, timely and complete records and agency failure to comply with provisions of the Privacy Act which have an adverse effect on an individual. The Bureau of

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Alcohol, Tobacco and Firearms believes that this system should be exempted from subsection (g) because the civil remedies provided in this subsection apply to provisions in the Privacy Act which have been exempted from application to this system by virtue of this notice. Since these provisions are not intended to apply to this system, there should be no corresponding civil penalty for failure to comply with the requirements of these sections due to exercise of the exemption authority. ATF believes that application of this subsection to this system of records would impair ATF's ability to conduct investigations into the criminal behavior of suspects because every step in the investigation process in which information is compiled for prosecution purposes would be susceptible to civil action under this subsection. For these reasons, ATF seeks exemption of this system from subsection (g).

(b) *Specific exemptions under section 552a(k)(2)*. Under the provisions of 5 U.S.C. 552a(k)(2), the Director, Bureau of Alcohol, Tobacco and Firearms, hereby determines that certain provisions of the Privacy Act of 1974 shall not apply to the *Treasury—ATF—Regulatory Enforcement Record System*, the *Treasury—ATF—Technical and Scientific Services Record System*, and that portion of the *Treasury—ATF—Internal Security Record System* relating to "conduct of employees" and "integrity of employees" records.

(1) The Privacy Act of 1974 creates several methods by which individuals may discover records containing information on such individuals and consisting of investigatory material compiled for law enforcement purposes. These methods are as follows: subsection (c)(3) allows individuals to discover if other agencies are investigating such individuals; subsections (d)(1), (e)(4)(H), and (f) (2), (3) and (5) establish the ability of individuals to gain access to investigatory material compiled on such individuals; subsections (d) (2), (3) and (4), (e)(4)(H) and (f)(4) presuppose access and enable individuals to contest the contents of investigatory material compiled on these individuals; and subsections (e)(4)(G) and (f)(1) allow individuals to deter-

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mine whether or not they are under investigation. Since these subsections are variations upon the individuals' ability to ascertain whether their civil or criminal misdeeds have been discovered, these subsections have been grouped together for purposes of this notice.

(A) The Bureau of Alcohol, Tobacco and Firearms believes that imposition of the requirements of subsection (c) (3), requiring accounting of disclosures be made available to individuals, would impair the ability of ATF and other investigative entities to conduct investigations of alleged or suspected violations of civil or criminal laws. Making the accounting of disclosures available identifies to individuals which investigative entities are investigating the individuals, the nature of the violations of which they are suspected, and the purpose for the exchange of information. Supplied with this information, the individuals concerned would be able to alter their ongoing and future illegal activities, conceal or destroy evidentiary materials and documents, and otherwise seriously impair the successful completion of investigations. Further, where individuals learn the geographic location and identity of the investigative entities which are interested in them, such individuals are able to move the site of their illegal activities or become secure in the knowledge that their illegal activities have not been detected in particular geographic locations. For these reasons, ATF seeks an exemption from the requirements of subsection (c)(3).

(B) With respect to subsections (d) (1), (e)(4)(H), and (f) (2), (3) and (5), the Bureau of Alcohol, Tobacco and Firearms believes that access into investigatory material would prevent the successful completion of ongoing investigations. Individuals who gain access to investigatory material compiled on them discover the nature and extent of the violations of civil or criminal laws which they are suspected or alleged to have committed. By gaining access, such individuals also learn the facts developed during an investigation. Knowledge of the facts and the nature and extent of the suspected or alleged violations enables these individuals to destroy materials or documents which

would have been used as evidence against them. In addition, knowledge of the facts and the suspected violations gives individuals, who are committing ongoing violations or who are about to commit violations of civil or criminal laws, the opportunity to temporarily postpone the commission of the violations or to effectively disguise the commission of these violations. Access to material compiled on investigated individuals reveals investigative techniques and the procedures followed in conducting investigations. Disclosure of these techniques and procedures enables individuals who intend to violate civil or criminal laws to structure their future illegal activities in such a way that they escape detection. Investigative material may contain the identity of confidential sources of information. Individuals who gain access to investigatory material compiled on them learn the identity of these confidential sources. Even where the name of the source is not revealed, investigated individuals may learn the identity of confidential sources by the process of elimination or by the very nature of the information contained in the files. Where the identity of confidential sources has been revealed, they may be subject to various forms of reprisal. If confidential sources of information are subjected to reprisals or the fear of reprisals, they would become reluctant to provide information necessary to identify or prove the guilt of individuals who violate civil or criminal laws. Without the information that is often supplied by confidential sources, the ability of investigative entities would be seriously impaired. For the reasons stated in this paragraph, ATF seeks exemption from the requirements of subsections (d)(1), (e)(4)(H), and (f) (2), (3) and (5).

(C) With respect to subsections (d) (2), (3) and (4), (e) (4) (H), and (f) (4), the Bureau of Alcohol, Tobacco and Firearms believes that the imposition of these requirements, which presuppose access and provide for amending records, would impair ATF's ability to conduct investigations for the same reasons stated in the preceding paragraph (b)(1)(B), and are incorporated by reference herein. Therefore, ATF seeks exemption from the requirements of

subsections (d) (2), (3) and (4), (e)(4)(H), and (f)(4).

(D) With respect to subsections (e) (4)(G) and (f)(1), the Bureau of Alcohol, Tobacco and Firearms believes that informing individuals that they are of record would impair the ability of ATF to successfully complete the investigations of suspected or alleged violators of civil or criminal laws. Individuals, who are informed that they have been identified as suspected violators of civil or criminal laws, are given the opportunity to destroy evidence or other material needed to prove the alleged violations. Such individuals would also be able to impair investigations by temporarily suspending ongoing illegal activities or by restructuring intended illegal activities. Informing individuals that they are of record in a particular system of records enables such individuals to learn the nature of the investigation, the character of the investigatory material and the specific civil or criminal laws they are suspected of violating. For these reasons, ATF seeks exemption from the requirements of subsections (e)(4)(G) and (f)(1).

(2) Subsection (e)(1) of the Privacy Act of 1974 requires that ATF maintain in its records only information that is relevant and necessary to accomplish a purpose of ATF required to be accomplished by statute or by executive order of the President. The Bureau of Alcohol, Tobacco and Firearms believes that imposition of such requirement would seriously impair the ability of ATF and other investigative entities to effectively investigate suspected or alleged violations of civil or criminal laws. Where individuals are engaged in a broad variety of violations, if ATF were only to collect information necessary and relevant to laws under ATF's jurisdiction, ATF would be unable to perform one of its functions, i.e., working with other governmental agencies which have similar jurisdictional concerns. Additionally, it is often impossible to determine whether or not information is relevant and necessary until the investigation is completed. When initially collected, information may appear irrelevant or immaterial. However, when this information is placed together with additional data gathered at a later stage of

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the investigation, the initially collected irrelevant information may form the basis for reasonable cause to believe additional violations of law are present or additional suspects are involved. Until all facts have been gathered and evaluated it may not be possible to determine relevancy and materiality. For these reasons, ATF seeks an exemption from the requirement of subsection (e)(1).

(c) *Specific exemptions under section 552a (k)(5)*. The Director, Bureau of Alcohol, Tobacco and Firearms exempts under section (k) of the Privacy Act of 1974, 5 U.S.C. 552a, that portion of the *Treasury—ATF—Internal Security Record System* relating to “security clearances for employees” records, and the *Treasury—ATF—Personnel Record System* from sections (c)(3), (d) (1) through (4), (e)(1), (e)(4)(G) through (e)(4)(I), and (f) of the Act. The records maintained in the exempt systems of records are of the type described in section (k)(5) of the Act: Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this proposed exemption and are subject to all the requirements of the Privacy Act.

The sections of the Act from which this system of records are exempt are in general those providing for individual access to records. When such access would cause the identity of a confidential source to be revealed, it would impair the future ability of the Treasury Department to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian em-

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ployment, Federal contracts, or access to classified information.

In addition, the systems are exempt from section (e)(1) which requires that the agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a statutory or executively ordered purpose. The Director finds that to fulfill the requirements of section (e) (1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

If any investigations within the scope of section (k)(5) become involved with civil or criminal matters, exemptions from the Act could also be asserted under sections (k)(2) or (j)(2).

(d) *Application of exemptions to records exempt in whole or in part*. (1) When an individual requests records about himself which have been exempted from individual access pursuant to 5 U.S.C. 552a(j) or which have been compiled in reasonable anticipation of a civil action or proceeding in either a court or before an administrative tribunal, the Bureau of Alcohol, Tobacco and Firearms will neither confirm nor deny the existence of the record but shall advise the individual only that no record available to him pursuant to the Privacy Act of 1974 has been identified.

(2) When there is a request for information which has been classified by ATF pursuant to Executive Order 11652 and Treasury Order 160, ATF will review the information to determine whether it continues to warrant classification under the criteria of sections 1 and 5 (B), (C), (D), and (E) of the Executive Order. Information which no longer warrants classification under these criteria shall be declassified. After declassification, the information shall be made available to the individual, unless an exemption is claimed. If the information continues to warrant classification, the provisions of EO 11652 shall apply.

(3) Requests for information which have been exempted from disclosure pursuant to 5 U.S.C. 552a(k)(2) shall be responded to in the manner provided in paragraph (d)(1) of this section unless a review of the information indicates

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that the information has been used to deny the individual any right, privilege, or benefit for which he is eligible or to which he would otherwise be entitled under federal law. In that event, the individual shall be advised of the existence of the information and shall be provided the information except to the extent it would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(4) Information compiled as part of an employee background investigation which has been exempted pursuant to 5 U.S.C. 552a(k)(5) shall be made available to an individual upon request except to the extent it would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(5) Even though the exemptions described in paragraphs (a), (b) and (c) of this section may be fully applicable, the Bureau may, if not precluded by law, elect under the circumstances of a particular case not to apply the exemption; or to exempt only a part. The fact that the exemption is not applied by the Bureau in a particular case has no precedential significance as to the application of the exemption to such matter in other cases. It is merely an indication that in the particular case involved, the Bureau finds no compelling necessity for applying the exemption to such matter. Where the Bureau has elected not to apply an exemption, in whole or in part, Appendix E of 31 CFR part 1, subpart C, relating to ATF's notice, access and amendment procedures shall apply to the records requested only to the extent that the exemption was not asserted.

BUREAU OF ENGRAVING AND PRINTING, DEPARTMENT OF THE TREASURY

NOTICE OF RULES EXEMPTING CERTAIN SYSTEMS FROM REQUIREMENTS OF THE PRIVACY ACT

(a) *In general.* The Director of the Bureau of Engraving and Printing exempts the Office of Security Investigative Files from the provisions of certain subsections of 5 U.S.C. 552a, the Privacy Act of 1974. The purpose of the exemptions is to maintain the confidentiality of information compiled for the purpose of criminal, non-criminal, employee suitability and security investigations.

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552a(k) and pursuant to the authority vested in the Director, Bureau of Engraving and Printing.

(c) *Exempted system.* Bureau of Engraving and Printing, Office of Security, Investigative Files.

(1) *Provisions from which exempted.* The Investigative Files maintained by the Office of Security contain records described in 5 U.S.C. 552a(k)(2), the Privacy Act of 1974. Exemptions will be claimed for such described records only where appropriate from the following provisions of the Privacy Act of 1974: Subsections (c)(3); (d) (1), (2), (3), (4); (e)(1); (e)(4) (G), (H), and (I); and (f) of 5 U.S.C. 552a.

(2) *Reasons for claimed exemptions.* a. 5 U.S.C. 552a(c)(3): This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c) (1) and (2) to the individual named in the Investigative Files. The reasons why these files are exempted from the foregoing provision are as follows:

(i) The release of accounting disclosures would put the subject of a security investigation on notice of the existence of an investigation and that he is the subject of that investigation;

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(ii) It would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure is made. Obviously, the release of such information to the subject of a security investigation would provide him with significant information concerning the nature of the investigation and could result in impeding or compromising the efforts of Bureau Security personnel to detect and report persons suspected of illegal, unlawful, or unauthorized activity;

(iii) Disclosure to the individual of the disclosure accounting after the investigation is closed would alert the individual as to which agencies were investigating him and would put him on notice concerning the scope of his suspected improper activities and could aid him in avoiding detection and apprehension.

b. 5 U.S.C. 552a(d) (1), (2), (3), (4); (e)(4) (G) and (H); and (f): The foregoing provisions of the Privacy Act relate to an individual's right to notification of the existence of records pertaining to him and access to such records; the agency procedures relating to notification, access and contest of the information continued in such records. The reasons why the Investigative Files are exempted from the foregoing provisions are as follows:

(i) To notify an individual at his request of the existence of records pertaining to him in the Investigative Files would inform the individual of the existence of an investigation and that he is the subject of that investigation. This would enable the individual to avoid detection and would further enable him to inform co-conspirators of the fact that an investigation is being conducted;

(ii) To permit access to the records contained in the Investigative Files would not only inform an individual that he is or was the subject of a security investigation, but would also provide him with significant information concerning the nature of the investigation which might enable him to avoid detection or apprehension;

(iii) To grant access to an on-going or closed investigative file could interfere

with Office of Security investigative proceedings, disclose the identity of confidential sources and reveal confidential information supplied by such sources, and disclose investigative techniques and procedures, or endanger the life or physical safety of Office of Security personnel, informants, witnesses, and other persons supplying information to investigators.

c. 5 U.S.C. 552a(e)(4)(I). This provision of the Privacy Act requires the publication of the categories of sources of records in each system of records. The reasons why the Investigative Files are exempted from the foregoing provision are as follows:

(i) Revealing sources of information could disclose investigative techniques and procedures;

(ii) Revealing sources of information could result in retaliation and threat of reprisal by the subject under investigation against such sources;

(iii) Revealing sources of information could cause witnesses, informants and others who supply information to Office of Security investigators to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality;

(iv) Revealing sources of information could result in the refusal of some sources to give full and complete information or to be candid with investigators because of the knowledge that the identity of such sources may be disclosed.

d. 5 U.S.C. 552a(e)(1): This provision of the Privacy Act requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency. The reasons why the Investigative Files are exempted from the foregoing provision are as follows:

(i) In a security investigation it is difficult to determine accurately the relevancy and necessity of information during the process of information gathering. It is only after the information is evaluated that the relevancy and necessity of such information can be ascertained;

(ii) In a security investigation, the Office of Security often obtains information concerning the violation of

laws other than those within the scope of its responsibilities. In the interest of effective law enforcement, it is desirable that the Office of Security retain this information since it can aid in establishing patterns of criminal activity and provide valuable leads for those law enforcement agencies that are charged with enforcing other segments of the criminal law;

(iii) In interviewing persons, or obtaining other forms of evidence during a criminal investigation, information will be supplied to the investigator which relates to matters which are ancillary to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information is not readily susceptible to segregation.

e. The foregoing exemptions are claimed for materials maintained in the Investigative Files to the extent that such materials contain information and reports described in 5 U.S.C. 552a(k)(2).

The Bureau of Engraving and Printing exempts under section (k) of the Privacy Act of 1974, 5 U.S.C. 552a, the Bureau's Personnel Security Files and Personnel Security Files and Indices from sections (c)(3), (d), (e)(1), (e)(4)(G) through (e)(4)(I), and (f) of the Act. The records maintained in the exempt systems of records are of the type described in section (k)(5) of the Act:

investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

Thus to the extent that the records in this system can be disclosed without revealing the identity of a confidential source, they are not within the scope of this exemption and are subject to all the requirements of the Privacy Act.

The sections of the Act from which this system of records are exempt are in general those providing for indi-

vidual access to records. When such access would cause the identity of a confidential source to be revealed, it would impair the future ability of the Treasury Department to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information.

In addition, the systems are exempt from section (e)(1) which requires that the agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a statutory or executively ordered purpose. The Director finds that to fulfill the requirements of section (e)(1) would unduly restrict the agency in its information gathering inasmuch as it is often not until well after the investigation that it is possible to determine the relevance and necessity of particular information.

If any investigations within the scope of section (k)(5) become involved with civil and criminal matters, exemptions from the Act should also be asserted under sections (k) (2) or (j) (2).

BUREAU OF THE MINT

NOTICE OF RULES EXEMPTING CERTAIN SYSTEMS FROM REQUIREMENTS OF THE PRIVACY ACT

(a) *In general.* The Director of the Mint exempts investigatory files on theft of Mint property and examination reports of coins forwarded to the Mint by the U.S. Secret Service from certain subsections of 5 U.S.C. 552a, the Privacy Act of 1974. The purpose of the exemption is to maintain the confidentiality of investigatory material compiled for law enforcement purposes.

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552(a)(k)(2), and pursuant to the authority vested in the Director of the Mint by paragraph 1.23(c) of subpart C of part 1 of subtitle A of title 31 of the *Code of Federal Regulations*.

(c) *Name of systems.* Examination Reports of Coins Forwarded to Mint from U.S. Secret Service and Investigatory Files on Theft of Mint Property.

(d) *Provisions from which exempted.* These two systems consist in large part

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of records generated by the U.S. Secret Service in connection with its responsibilities to enforce various criminal laws. Those records are described in 5 U.S.C. 552a(j) and are exempted from various provisions of the Privacy Act of 1974 by the Director of the U.S. Secret Service. To a lesser extent, these two systems also contain records generated and compiled by the Bureau of the Mint in assisting the U.S. Secret Service in its law enforcement efforts. Those records are described in 5 U.S.C. 552a(k)(2), the Privacy Act of 1974. Exemptions will be claimed for such records only where appropriate from the following provisions, subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a.

(e) *Reasons for claimed exemptions.* Those provisions of the Privacy Act would otherwise require the Bureau of the Mint to notify an individual of investigatory material maintained in a record pertaining to him, permit access to such record, permit request for its correction (section 552a(d), (e)(4) (G), (H) and (f)); make available to him any required accounting of disclosures made of the record (section 552a(c)(3)), publish the sources of records in the system (section 552a(e)(4) (I)); and screen records to insure that there is maintained only such information about an individual as is relevant to accomplish a required purpose of the Bureau (section 52a(e)(1)). Disclosure to an individual of investigatory material pertaining to him would hamper law enforcement by prematurely disclosing the knowledge of illegal activities and the evidentiary bases for possible enforcement actions. Furthermore, the disclosure of certain investigatory material compiled for law enforcement purposes may disclose investigative techniques and procedures, so that future law enforcement efforts would be hindered. Access to an accounting of disclosures of such records would have a similar detrimental effect on law enforcement. Accordingly, the Director of the Mint finds that the public interest and public policy in protecting the coinage and property of the United States require exemption from the stated sections of the Act to the extent that they are applicable to appropriate materials in these two systems.

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COMPTROLLER OF THE CURRENCY

NOTICE OF RULES EXEMPTING CERTAIN SYSTEMS OF RECORDS FROM THE REQUIREMENTS OF THE PRIVACY ACT

(a) *In general.* The Office of the Comptroller of the Currency exempts the following systems of records from certain provisions of the Privacy Act:

- (1) Enforcement and Compliance Information;
- (2) Federal Bureau of Investigation Report Card index;
- (3) Chief Counsel's Management Information System.

The purpose of the exemption is to maintain confidentiality of data obtained from various sources that may ultimately accomplish a statutory or executively-ordered purpose.

(b) *Authority.* The authority to issue exemptions is vested in the Office of the Comptroller of the Currency, as a constituent unit of the Treasury Department, by 31 CFR 1.20 and 1.23(c).

(c) *Exemptions under 5 U.S.C. 552a(j)(2).* (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may issue rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. Components of the Office of the Comptroller of the Currency are involved in the investigation of fraudulent or other illegal activities as well as other sensitive matters, in order to carry out their bank supervisory function. Exemptions will be claimed for such records only where appropriate.

(2) To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the above named systems of records, then the exemption under 5 U.S.C. 552a(k)(2) relating to investigatory material compiled for law enforcement purposes is claimed for certain records in the systems. Exemptions will be claimed for such records only where appropriate.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

5 U.S.C. 552a(c)(3) and (4)

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5 U.S.C. 552a(d)(1), (2), (3), (4)
5 U.S.C. 552a(e)(1), (2), and (3)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(e)(5) and (8)
5 U.S.C. 552a(f)
5 U.S.C. 552a(g)

(d) *Exemptions under 5 U.S.C. 552a(k)(2)*. (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may issue rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled or law enforcement purposes.

(2) To the extent that information contained in the above-named systems has as its principal purpose the enforcement of criminal laws, the exemption for such information under 5 U.S.C. 552a(j)(2) is claimed.

(3) Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(f)

(e) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2)*. (1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are the subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(2) 5 U.S.C. 552a(c)(4), (d)(1), (2), (3), and (4), (e)(4)(G) and (H), (f), and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the

agency procedures relating to access to records and the content of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. These systems are exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could: interfere with investigative and enforcement proceedings; interfere with co-defendants' rights to a fair trial; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by these sources; or disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive order. An exemption from the foregoing is needed:

(i) Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance can be established.

(iii) In any investigation the Comptroller of the Currency may obtain information concerning violations of

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laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the Comptroller of the Currency should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(iv) In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relates to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of the provision would impair investigations for the following reasons:

(i) In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources.

(ii) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

(iii) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities in order to avoid apprehension.

(iv) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

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(6)(i) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

(A) The authority under which the information is sought and whether disclosure of the information is mandatory or voluntary,

(B) The purposes for which the information is intended to be used,

(C) The routine uses which may be made of the information, and

(D) The effects on the subject, if any, of not providing the requested information.

(ii) The reasons for exempting these systems of records from the foregoing provision are as follows:

(A) The disclosure to the subject of the investigation as stated in paragraph (e)(6)(i)(B) would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(B) If the subject were informed as required by this provision, it could seriously interfere with information-gathering activities by requiring disclosure of sources of information and, therefore, impairing the successful conclusion of the investigation.

(C) Individuals may be contacted during preliminary information-gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed in a logical order which objectively proves or disproves suspected

behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing investigation to the subject of the investigation.

(f) *Documents exempted.* Exemption will be claimed for certain records only where appropriate under the above provisions.

OFFICE OF THRIFT SUPERVISION

NOTICE OF EXEMPT SYSTEMS

In accordance with 5 U.S.C. 552a (j) and (k), general notice is hereby given of rulemaking pursuant to the Privacy Act of 1974 by the Director, Office of Thrift Supervision, under authority delegated to him by the Secretary of the Treasury. The Director, Office of Thrift Supervision, exempts the systems of records identified in the paragraphs below from certain provisions of the Privacy Act of 1974 as set forth in such paragraphs.

a. *General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to the provisions of 5 U.S.C. 552a(j)(2), the Director, Office of Thrift Supervision, hereby exempts certain systems of records, maintained by the Office of Thrift Supervision, from the provisions of 5 U.S.C. 552a(c) (3) and (4), (d) (1), (2), (3) and (4), (e) (1), (2), (3), (4)(G), (H) and (I), (5) and (8), (f) and (g).

1. *Exempt Systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(j)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph a. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the FEDERAL REGISTER

.001 — Confidential Individual Information System

.004 — Criminal Referral Database

2. *Reasons for exemptions.* (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would give individuals an opportunity to learn whether they are the subject of an administrative investigation; this would compromise the ability of the OTS to complete investigations and to detect and apprehend violators of applicable laws in that individuals would thus be able (1) to take steps to avoid detection, (2) to inform co-conspirators of the fact that an investigation is being conducted, (3) to learn the nature of the investigation to which they are being subjected, (4) to learn the type of surveillance being utilized, (5) to learn whether they are the subject of investigation or identified law violators, (6) to continue or resume their illegal conduct without fear of detection upon learning that they are not in a particular system of records, and (7) to destroy evidence needed to prove a violation.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) enable individuals to gain access to records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would compromise its ability to complete or continue administrative investigations and to detect and apprehend violators of applicable laws. Permitting access to records contained in the above-listed systems of records would provide individuals with significant information concerning the nature of the investigation, and this could enable them to avoid detection or apprehension in the following ways: (1) by discovering the collection of facts which would form the basis of an enforcement action, and (2) by enabling them to destroy evidence of wrongful conduct which would form the basis of an enforcement action. Granting access to on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could

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enable individuals planning illegal activity to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing established investigative techniques and procedures. Further, granting access to investigative files and records could disclose the identities of confidential sources and other informers and the nature of the information which they supplied, thereby exposing them to possible reprisals for having provided information related to the activities of those individuals who are subjects of the investigative files and records; confidential sources and other informers might refuse to provide investigators with valuable information if they could not be secure in the knowledge that their identities would not be revealed through disclosure of either their names or the nature of the information they supplied, and this would seriously impair the ability of the OTS to carry out its mandate to enforce the applicable laws. Additionally, providing access to records contained in the above-listed systems of records could reveal the identities of individuals who compiled information regarding illegal activities, thereby exposing them to possible reprisals.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in paragraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The OTS believes that the reasons set forth in paragraph (b) above are equally applicable to this subparagraph and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and ad-

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dress of the recipient. The OTS believes that application of this provision to the above-listed systems of records would impair the ability of other law enforcement agencies to make effective use of information provided by the OTS in connection with the investigation, detection and apprehension of violators of the laws enforced by those other law enforcement agencies. Making accountings of disclosure available to subjects would alert those individuals to the fact that another agency is conducting an investigation into their activities, and this could reveal the nature and purpose of that investigation, and the dates on which that investigation was active. Subjects possessing such knowledge would thereby be able to take appropriate measures to avoid detection or other apprehension by altering their operations, or by destroying or concealing evidence which would form the basis of an enforcement action. In addition, providing subjects with accountings of disclosure would inform those individuals of general information, and alert them that the OTS has information regarding their activities; this, in turn, would afford those individuals a better opportunity to take appropriate steps to avoid detection or apprehension.

(e) 5 U.S.C. 552a(c)(4) requires that an agency inform any person or other agency about any correction or notation of dispute made by the agency in accordance with 5 U.S.C. 552(d) of any record that has been disclosed to the person or agency if an accounting of the record was made. Since this provision is dependent on an individual's having been provided an opportunity to contest (seek amendment to) records pertaining to him, and since the above-listed systems of records are proposed to be exempted from those provisions of 5 U.S.C. 552a relating to amendments of records as indicated in paragraph (c) above, the OTS believes that this provision should not be applicable to the above-listed systems of records.

(f) 5 U.S.C. 552a(e)(4)(I) requires that an agency publish a public notice listing the categories of sources for information contained in a system of

records. The OTS believes that application of this provision to the above-listed systems of records could compromise its ability to conduct investigations and to identify, detect and apprehend violators of the applicable laws for the reasons that revealing sources for information could 1) disclose investigative techniques and procedures, 2) result in possible reprisal directed to informers by the subject under investigation, and 3) result in the refusal of informers to give information or to be candid with investigators because of the knowledge that their identities as sources might be disclosed.

(g) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the OTS, there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the OTS; in many cases information collected may not be immediately susceptible to a determination whether the information is relevant and necessary, particularly in the early stages of an investigation, and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation, prove to have particular relevance to an enforcement program of OTS. Further, not all violations of law discovered during an OTS administrative investigation fall within the investigative jurisdiction of OTS; in order to promote effective law enforcement, OTS is often required to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(1).

(h) 5 U.S.C. 552a(e)(2) requires that an agency collect information to the greatest extent practicable directly

from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The OTS believes that application of this provision to the above-listed systems of records would impair the ability of OTS to conduct investigations and to identify, detect and apprehend violators of applicable laws for the following reasons: (1) most information collected about an individual under investigation is obtained from third parties such as witnesses and informers, and it is usually not feasible to rely upon the subject of the investigation as a source for information regarding his activities, (2) an attempt to obtain information from the subject regarding an investigation will often alert the subject to the existence of such an investigation, thereby affording him an opportunity to conceal his activities so as to avoid apprehension, (3) in certain instances individuals are not required to supply information to investigators as a matter of legal duty, and (4) during investigations it is often a matter of sound investigative procedures to obtain information from a variety of sources in order to verify information already obtained.

(i) 5 U.S.C. 552a(e)(3) requires that an agency inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual, of the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principal purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effects on the individual of not providing all or part of the requested information. The OTS believes that the above-listed systems of records should be exempted from this provision in order to avoid adverse effects on its ability to identify, detect and apprehend violators of applicable laws. In many cases, information is obtained from confidential sources and other individuals under circumstances where it is necessary that the true purpose of their actions be kept secret so as not

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to alert the subject of the investigation or his associates that an investigation is in progress. In many cases, individuals for personal reasons would feel inhibited in talking to a person representing a law enforcement agency but would be willing to talk to a confidential source or a person who they believed was not involved in enforcement activity. In addition, providing information in this system with written evidence of who was the source, as required by this provision, could increase the likelihood that the source of information would be the subject of retaliatory action by the subject of the investigation. Further, application of this provision could result in an unwarranted invasion of the personal privacy of the subject of the investigation, particularly where further investigation would result in a finding that he was not involved in unlawful activity.

(j) 5 U.S.C. 552a(e)(5) requires that an agency maintain all records used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Since 5 U.S.C. 552a(a)(3) defines "maintain" to include "collect" and "disseminate," application of this provision to the above-listed systems of records would hinder the initial collection of any information which could not, at the moment of collection, be determined to be accurate, relevant, timely and complete. Similarly, application of this provision would seriously restrict the necessary flow of information from the OTS to other law enforcement agencies where an OTS investigation revealed information pertaining to a violation of law which was under the investigative jurisdiction of another agency. In collecting information during the course of an administrative investigation, it is not possible or feasible to determine accuracy, relevance, timeliness or completeness prior to collection of the information; in disseminating information to other law enforcement agencies it is often not possible to determine accuracy, relevance, timeliness or completeness prior to dissemination because the disseminating agency may not have the expertise with which to

make such determinations. Further, information which may initially appear inaccurate, irrelevant, untimely or incomplete may, when gathered, grouped, and evaluated with other available information, become more pertinent as an investigation progresses. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(5).

(k) 5 U.S.C. 552a(e)(8) requires that an agency make reasonable efforts to serve notice on an individual when any record on the individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The OTS believes that the above-listed systems of records should be exempt from this provision in order to avoid revealing investigative techniques and procedures outlined in those records and in order to prevent revelation of the existence of an on-going investigation where there is a need to keep the existence of the investigation secret.

(l) 5 U.S.C. 552a(g) provides civil remedies to an individual for an agency refusal to amend a record or to make a review of a request for amendment, for an agency refusal to grant access to a record, for an agency failure to maintain accurate, relevant, timely and complete records which are used to make a determination which is adverse to the individual, and for an agency failure to comply with any other provision of 5 U.S.C. 552a in such a way as to have an adverse effect on an individual. The OTS believes that the above-listed systems of records should be exempted from this provision to the extent that the civil remedies provided therein may be related to provisions of 5 U.S.C. 552a from which the above-listed systems of records are proposed to be exempt. Since the provisions of 5 U.S.C. 552a enumerated in paragraphs (a) through (k) above are proposed to be inapplicable to the above-listed systems of records for the reasons stated therein, there should be no corresponding civil remedies for failure to comply with the requirements of those provisions to which the exemption is proposed to apply. Further, the OTS believes that the application of this provision to the above-listed systems

of records would adversely affect its ability to conduct investigations by exposing to civil court actions every stage of the investigative process in which information is compiled or used in order to identify, detect, apprehend and otherwise investigate persons suspected or known to be engaged in conduct in violation of applicable laws.

b. *Specific exemptions under 5 U.S.C. 552a(k)(2)*. Pursuant to the provisions of 5 U.S.C. 552a(k)(2), the OTS hereby exempts certain systems of records, maintained by the OTS from the provisions of 5 U.S.C. 552a(c)(3), (d)(1), (2), (3) and (4), (e)(1) and (4)(G), (H) and (I) and (f).

1. *Exempt Systems*. The following systems of records, which contain information of the type described in 5 U.S.C. 552a(k)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph b. above except as otherwise indicated below and in the general notice of the existence and character of systems of records which appears elsewhere in the FEDERAL REGISTER:

.001 — Confidential Individual Information System

.004 — Criminal Referral Database

2. *Reasons for exemptions*. (a) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would impair the ability of the OTS to successfully complete investigations and inquiries of suspected violators of laws and regulations under its jurisdiction. In many cases investigations and inquiries into violations of laws and regulations involve complex and continuing patterns of behavior. Individuals, if informed that they have been identified as the subject of an investigation, would have an opportunity to take measures to prevent detection of illegal action so as to avoid prosecution or the imposition of civil sanctions. They would also be able to learn the nature and location of the investigation and the type of inquiry being made, and they would be able to transmit this knowledge to co-conspirators. Finally, subjects might be given the opportunity to destroy evidence needed to prove the violation under investigation or inquiry.

(b) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) enable individuals to gain access to records pertaining to them. The OTS believes that application of these provisions to the above-listed systems of records would impair its ability to complete or continue investigations and inquiries and to detect and apprehend violators of the applicable laws. Permitting access to records contained in the above-listed systems of records would provide subjects with significant information concerning the nature of the investigation or inquiry. Knowledge of the facts developed during an investigation or inquiry would enable violators of laws and regulations to learn the extent to which the investigation or inquiry has progressed, and this could provide them with an opportunity to destroy evidence that would form the basis for the imposition of civil sanctions. In addition, knowledge gained through access to investigatory material could alert a subject to the need to temporarily postpone commission of the violation or to change the intended point where the violation is to be committed so as to avoid detection or apprehension. Further, access to investigatory material would disclose investigative techniques and procedures which, if known, could enable individuals to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing investigators' established and effective investigative tools and procedures. In addition, investigatory material may contain the identity of confidential sources who would not want their identity to be disclosed for reasons of personal privacy or for fear of reprisal at the hands of the individual about whom they supplied information. In some cases mere disclosure of the information provided by a source would reveal the identity of the source either through the process of elimination or by virtue of the nature of the information supplied. If sources could not be assured that their identities (as sources for information) would remain confidential, they would be very reluctant in the future to provide information pertaining to violations of laws and regulations, and this would seriously compromise the ability of the

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OTS to carry out its mission. Further, application of 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f)(2), (3) and (5) to the above-listed systems of records would make available attorney's work product and other documents which contain evaluations, recommendations, and discussions of ongoing legal proceedings; the availability of such documents could have a chilling effect on the free flow of information and ideas within the OTS which is vital to the agency's predecisional deliberative process, could seriously prejudice the agency's or the Government's position in litigation, and could result in the disclosure of investigatory material which should not be disclosed for the reasons stated above. It is the belief of the OTS that due process will assure that individuals have a reasonable opportunity to learn of the existence of, and to challenge, investigatory records and related materials which are to be used in legal proceedings.

(c) 5 U.S.C. 552a(d) (2), (3) and (4), (e)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in subparagraph (b) above, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The OTS believes that the reasons set forth in subparagraph (b) above are equally applicable to this subparagraph, and, accordingly, those reasons are hereby incorporated herein by reference.

(d) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The OTS believes that application of this provision to the above-listed systems of records would impair the ability of the OTS and other law enforcement agencies to conduct investigations and inquiries into potential violations under their

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respective jurisdictions. Making accountings available to subjects would alert those individuals to the fact that the OTS or another law enforcement authority is conducting an investigation or inquiry into their activities, and such accountings could reveal the geographic location of the investigation or inquiry, the nature and purpose of the investigation or inquiry and the nature of the information disclosed, and dates on which that investigation or inquiry was active. Subjects possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, transferring their activities to other locations or destroying or concealing evidence which would form the basis for prosecution or the imposition of civil sanctions.

(e) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the OTS there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the OTS; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of investigation or inquiry; and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation or inquiry, prove to have particular relevance to an enforcement program of the OTS. Further, not all violations of law uncovered during an OTS investigation or inquiry fall within the jurisdiction of the OTS; in order to promote effective law enforcement it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The OTS therefore

believes that it is appropriate to exempt the above-listed systems of records from provisions of 5 U.S.C. 552a(e)(1).

[40 FR 45692, Oct 2, 1975, as amended at 44 FR 7141, Feb. 6, 1979; 44 FR 42189, July 19, 1979; 45 FR 13455, Feb. 29, 1980; 48 FR 21945, May 16, 1983; 48 FR 48460, Oct. 19, 1983; 52 FR 11990, Apr. 14, 1987; 56 FR 12447, Mar. 26, 1991; 59 FR 47538, Sept. 16, 1994; 61 FR 387, Jan. 5, 1996; 62 FR 19505, Apr. 22, 1997; 62 FR 26939, May 16, 1997; 62 FR 58908, Oct. 31, 1997; 62 FR 60782, Nov. 13, 1997; 64 FR 62586, Nov. 17, 1999]

APPENDICES TO SUBPART C

APPENDIX A—DEPARTMENTAL OFFICES

1. *In general.* This appendix applies to the Departmental Offices as defined in 31 CFR part 1, subpart C, §1.20. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records, the officers designated to make the initial and appellate determinations with respect to requests for amendment of records, the officers designated to grant extensions of time on appeal, the officers with whom "Statement of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e)(4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Departmental Offices, will be made by the head of the organizational unit having immediate custody of the records requested, or the delegate of such official. This information is contained in the appropriate system notice in the "Privacy Act Issuances", published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records should be addressed to:

Privacy Act Request, DO, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Requests may be delivered personally to the Main Treasury Building, Room 5030, 1500 Pennsylvania Avenue NW., Washington, DC.

3. *Requests for amendments of records.* Initial determinations under 31 CFR 1.27(a) through (d) with respect to requests to amend records for records maintained by the Departmental

Offices will be made by the head of the organization or unit having immediate custody of the records or the delegate of such official. Requests for amendment of records should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send these requests should be addressed to: Privacy Act Amendment Request, DO, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

4. *Administrative appeal of initial determination refusing to amend record.* Appellate determinations under 31 CFR 1.27(e) with respect to records of the Departmental Offices, including extensions of time on appeal, will be made by the Secretary, Deputy Secretary, Under Secretary, General Counsel, or Assistant Secretary having jurisdiction over the organizational unit which has immediate custody of the records, or the delegate of such official, as limited by 5 U.S.C. 552a(d) (2) and (3). Appeals made by mail should be addressed as indicated in the letter of initial decision or to:

Privacy Act Amendment Request, DO Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Appeals may be delivered personally to the Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC.

5. *Statements of disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e)(4) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such official and shall be delivered to the following location:

General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records required to be published by the Office of the Federal Register in the publication entitled "Privacy Act Issuances", as specified in 5 U.S.C. 552a (f). Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 and 8 of this appendix, and locations for access are indicated in the notice for the pertinent system.

8. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the Departmental Offices on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish identity by the presentation of a single official document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

(ii) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses.

Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

APPENDIX B—INTERNAL REVENUE SERVICE

1. *Purpose.* The purpose of this section is to set forth the procedures that have been established by the Internal Revenue Service for individuals to exercise their rights under the Privacy Act of 1974 (88 Stat. 1896) with respect to systems of records maintained by the Internal Revenue Service, including the Office of the Chief Counsel. The procedures contained in this section are to be promulgated under the authority of 5 U.S.C. 552a(f). The procedures contained in this section relate to the following:

(a) The procedures whereby an individual can be notified in response to a request if a system of records named by the individual contains a record pertaining to such individual (5 U.S.C. 552a(f)(1)).

(b) The procedures governing reasonable times, places, and requirements for identifying an individual who requests a record of information pertaining to such individual before the Internal Revenue Service will

make the record or information available to the individual (5 U.S.C. 552a (f)(2)).

(c) The procedures for the disclosure to an individual upon a request of a record of information pertaining to such individual, including special procedures for the disclosure to an individual of medical records, including psychological records. (5 U.S.C. 552a (f)(3)).

(d) The procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the Internal Revenue Service of an initial adverse agency determination, and for whatever additional means may be necessary for individuals to be able to exercise fully their right under 5 U.S.C. 552a (5 U.S.C. 552a (f)(4)).

Any individual seeking to determine whether a system of records maintained by any office of the Internal Revenue Service contains a record or information pertaining to such individual, or seeking access to, or amendment of, such a record, must comply fully with the applicable procedure contained in paragraph (3) or (4) of this section before the Internal Revenue Service will act on the request. Neither the notification and access (or accounting of disclosures) procedures under paragraph (3) of this section nor the amendment procedures under paragraph (4) of this section are applicable to (i) systems of records exempted pursuant to 5 U.S.C. 552a (j) and (k), (ii) information compiled in reasonable anticipation of a civil action or proceeding (see 5 U.S.C. 552a (d)(5)), or (iii) information pertaining to an individual which is contained in, and inseparable from, another individual's record.

2. *Access to and amendment of tax records.* The provisions of the Privacy Act of 1974 may not be used by an individual to amend or correct any tax record. The determination of liability for taxes imposed by the Internal Revenue Service Code, the collection of such taxes, and the payment (including credits or refunds of overpayments) of such taxes are governed by the provisions of the Internal Revenue Service Code and by the procedural rules of the Internal Revenue Service. These provisions set forth the established procedures governing the determination of liability for tax, the collection of such taxes, and the payment (including credits or refunds of overpayments) of such taxes. In addition, these provisions set forth the procedures (including procedures for judicial review) for resolving disputes between taxpayers and the Internal Revenue Service involving the amount of tax owed, or the payment or collection of such tax. These procedures are the exclusive means available to an individual to contest the amount of any liability for tax or the payment or collection thereof. See, for example, 26 CFR 601.103 for summary of general tax procedures. Individuals are advised

that Internal Revenue Service procedures permit the examination of tax records during the course of an investigation, audit, or collection activity. Accordingly, individuals should contact the Internal Revenue Service employee conducting an audit or effecting the collection of tax liabilities to gain access to such records, rather than seeking access under the provisions of the Privacy Act. Where, on the other hand, an individual desires information or records not in connection with an investigation, audit, or collection activity, the individual may follow these procedures.

3. *Procedures for access to records*—(a) *In general.* This paragraph sets forth the procedure whereby an individual can be notified in response to a request if a system of records named by the individual which is maintained by the Internal Revenue Service contains a record pertaining to such individual. In addition, this paragraph sets forth the procedure for the disclosure to an individual upon a request of a record or information pertaining to such individual, including the procedures for verifying the identity of the individual before the Internal Revenue Service will make a record available, and the procedure for requesting an accounting of disclosures of such records. An individual seeking to determine whether a particular system of records contains a record or records pertaining to such individual and seeking access to such records (or seeking an accounting of disclosures of such records) shall make a request for notification and access (or a request for an accounting of disclosures) in accordance with the rules provided in paragraph 3(b) of this section.

(b) *Form of request for notification and access or request for an accounting of disclosures.* (i) A request for notification and access (or request for an accounting of disclosures) shall be made in writing and shall be signed by the person making the request.

(ii) Such request shall be clearly marked, "Request for notification and access," or "Request for accounting of disclosures."

(iii) Such a request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g., husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the name and location of the particular system of records (as set forth in the Notice of Systems) for which the individual is seeking notification

and access (or an accounting of disclosures), and the title and business address of the official designated in the access section for the particular system (as set forth in the Notice of Systems). In the case of two or more systems of records which are under the control of the same designated official at the same systems location, a single request may be made for such systems. In the case of two or more systems of records which are not in the control of the same designated official at the same systems location, a separate request must be made for each such system.

(vi) If an individual wishes to limit a request for notification and access to a particular record or records, the request should identify the particular record. In the absence of a statement to the contrary, a request for notification and access for a particular system of records shall be considered to be limited to records which are currently maintained by the designated official at the systems location specified in the request.

(vii) If such request is seeking notification and access to material maintained in a system of records which is exempt from disclosure and access under 5 U.S.C. 552a (k)(2), the individual making the request must establish that such individual has been denied a right, privilege, or benefit that such individual would otherwise be entitled to under Federal law as a result of the maintenance of such material.

(viii) Such request shall state whether the individual wishes to inspect the record in person, or desires to have a copy made and furnished without first inspecting it. If the individual desires to have a copy made, the request must include an agreement to pay the fee for duplication ultimately determined to be due. If the individual does not wish to inspect a record, but merely wishes to be notified whether a particular system or records contains a record pertaining to such individual, the request should so state.

(c) *Time and place for making a request.* A request for notification and access to records under the Privacy Act (or a request for accounting of disclosures) shall be addressed to or delivered in person to the office of the official designated in the access section for the particular system of records for which the individual is seeking notification and access (or an accounting of disclosures). The title and office address of such official is set forth for each system of records in the Notice of Systems of Records. A request delivered to an office in person must be delivered during the regular office hours of that office.

(d) *Sample request for notification and access to records.* The following are sample requests for notification and access to records which will satisfy the requirements of this paragraph:

Pt. 1, Subpt. C, App. B

31 CFR Subtitle A (7-1-00 Edition)

REQUEST FOR NOTIFICATION AND ACCESS TO
RECORDS BY MAIL

I, John Doe, of 100 Main Street, Boston, MA 02108 (soc. sec. num. 000-00-0000) request under the Privacy Act of 1974 that the following system of records be examined and that I be furnished with a copy of any record (or a specified record) contained therein pertaining to me. I agree that I will pay the fees ultimately determined to be due for duplication of such record. I have enclosed the necessary information.

System Name:
System Location:
Designated Official:

John Doe

REQUEST FOR NOTIFICATION AND ACCESS TO
RECORDS IN PERSON

I, John Doe, of 100 Main Street, Boston, MA 02108 (soc. sec. num. 000-00-0000) request under the provisions of the Privacy Act of 1974, that the following system of records be examined and that I be granted access in person to inspect any record (or a specified record) contained therein pertaining to me. I have enclosed the necessary identification.

System Name:
System Location:
Designated Official:

John Doe

(e) *Processing a request for notification and access to records or a request for an accounting of disclosures.* (i) If a request for notification and access (or request for an accounting of disclosures) omits any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised of the additional information which must be submitted before the request can be processed.

(ii) Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request for notification and access (or a request for an accounting of disclosures), to a particular system of records by the designated official for such system, a determination will be made as to whether the particular system of records is exempt from the notification and access provisions of the Privacy Act, and if such system is not exempt, whether it does or does not contain a record pertaining to the individual making the request. If a determination cannot be made within 30 days, the individual will be notified of the delay, the reasons therefor, and the approximate time required to make a determination. If it is determined by the designated official that the particular system of records is exempt from the notification and access provisions of the Privacy Act, the individual making the re-

quest will be notified of the provisions of the Privacy Act under which the exemption is claimed. On the other hand, if it is determined by the designated official that the particular system of records is not exempted from the notification and access provisions of the Privacy Act and that such system contains a record pertaining to the individual making the request, the individual will be notified of the time and place where inspection may be made. If an individual has not requested that access be granted to inspect the record in person, but merely requests that a copy of the record be furnished, or if it is determined by the designated official that the granting of access to inspect a record in person is not feasible in a particular case, then the designated official will furnish a copy of the record with the notification, or if a copy cannot be furnished at such time, a statement indicating the approximate time such copy will be furnished. If the request is for an accounting of disclosures from a system of records which is not exempt from the accounting of disclosure provisions of the Privacy Act, the individual will be furnished with an accounting of such disclosures.

(f) *Granting of access.* Normally, an individual will be granted access to inspect a record in person within 30 days (excluding Saturdays, Sundays, and legal public holidays) after the receipt for a request for notification and access by the designated official. If access cannot be granted within 30 days, the notification will state the reasons for the delay and the approximate time such access will be granted. An individual wishing to inspect a record may be accompanied by another person of his choosing. Both the individual seeking access and the individual accompanying him may be required to sign a form supplied by the IRS indicating that the Service is authorized to disclose or discuss the contents of the record in the presence of both individuals. See 26 CFR 601.502 for requirements to be met by taxpayer's representatives in order to discuss the contents of any tax records.

(g) *Medical records.* When access is requested to medical records (including psychological records), the designated official may determine that release of such records will be made only to a physician designated by the individual to have access to such records.

(h) *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the IRS on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish

identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

(ii) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses.

(iv) Notwithstanding subdivisions (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request if such official determines that it is necessary to protect unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

(i) *Fees.* The fee for costs required of the IRS in copying records pursuant to this paragraph is \$0.15 per page. However, no fee will be charged if the aggregate costs required of the IRS in copying records is less than \$3.00. If an individual who has requested access to inspect a record in person is denied such access by the designated official because it would not be feasible in a particular case, copies of such record will be furnished to the individual without payment of the fees otherwise required under this subparagraph. If the IRS estimates that the total fees for costs incurred in complying with a request for copies of records will amount to \$50 or more, the individual making the request may be required to enter into a contract for the payment of the actual fees with respect to the request before the Service will furnish the copies requested. Payment of fees for copies of records should be made by check or money order payable to the Internal Revenue Service.

4. *Procedures for amendment of records.* (a) In general. This paragraph sets forth the procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to such individual, for making a determination on the

request, for making an appeal within the IRS of an initial adverse determination, and for judicial review of a final determination.

(b) *Amendment of record.* Under 5 U.S.C. 552a(d)(2), an individual who has been granted access to a record pertaining to such individual may, after inspecting the record, request that the record be amended to make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete. An individual may seek to amend a record in accordance with the rules provided in paragraph (d)(3) of this section. See paragraph (b) of this section for prohibition against amendment of tax records.

(c) *Form of request for amendment of record.*

(i) A request for amendment of a record shall be in writing and shall be signed by the individual making the request.

(ii) Such request shall be clearly marked "Request for amendment of record."

(iii) Such request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g., husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the name and location of the system of records (as set forth in the Notice of Systems) in which such record is maintained, and the title and business address of the official designated in the access section for such system (as set forth in the Notice of Systems).

(vi) Such request shall specify the particular record in the system which the individual is seeking to amend.

(vii) Such request shall clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reasons for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition.

(d) *Time and place for making request.* A request to amend a record under the Privacy Act shall be addressed to or delivered in person to the office of the official designated in the access section for the particular system of records. The title and office address of such official is set forth for each system of records in the Notice of Systems of Records. A request delivered to an office in person must be delivered during the regular office hours of that office.

(e) *Processing a request for amendment of a record.* (i) Within 10 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request to amend a record by the designated official, the individual will be sent a written acknowledgment that will state that the request has been received, that action is being taken thereon, and that the individual will be notified within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of the request whether the requested amendments will or will not be made. If a request for amendment of a record omits any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised on the additional information which must be submitted before the request can be processed.

(ii) Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request to amend a record by the designated official, a determination will be made as to whether to grant the request in whole or part. The individual will then be notified in writing of the determination. If a determination cannot be made within 30 days, the individual will be notified in writing within such time of the reasons for the delay and the approximate time required to make a determination. If it is determined by the designated official that the request will be granted, the requested changes will be made in the record and the individual will be notified of the changes. In addition, to the extent an accounting was maintained, all prior recipients of such record will be notified of the changes. Upon request, an individual will be furnished with a copy of the record, as amended, subject to the payment of the appropriate fees. On the other hand, if it is determined by the designated official that the request, or any portion thereof, will not be granted, the individual will be notified in writing of the adverse determination. The notification of an adverse determination will set forth the reasons for refusal to amend the record. In addition, the notification will contain a statement informing the individual of such individual's right to request an independent review of the adverse determination by a reviewing officer in the national office of the IRS and the procedures for requesting such a review.

(f) *Administrative review of adverse determination.* Under 5 U.S.C. 552a (d)(3), an individual who disagrees with the refusal of the agency to amend a record may, within 35 days of being notified of the adverse determination, request an independent review of such refusal by a reviewing officer in the national office of the IRS. The reviewing officer for the IRS is the Commissioner of Internal Revenue, the Deputy Commissioner, or an Assistant Commissioner. In the case of an

adverse determination relating to a system of records maintained by the Office of General Counsel for the IRS, the reviewing officer is the Chief Counsel or his delegate. An individual seeking a review of an adverse determination shall make a request for review in accordance with the rules provided in paragraph (d)(7) of this section.

(g) *Form of request for review.* (i) A request for review of an adverse determination shall be in writing and shall be signed by the individual making the request.

(ii) Such request shall be clearly marked "Request for review of adverse determination".

(iii) Such request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g. husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the particular record which the individual is seeking to amend, the name and location of the system of records (as set forth in the Notice of Systems) in which such record is maintained, and the title and business address of the designated official for such system (as set forth in the Notice of Systems).

(vi) Such request shall include the date of the initial request for amendment of the record, and the date of the letter notifying the individual of the initial adverse determination with respect to such request.

(vii) such request shall clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reasons for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition.

(h) *Time and place for making the request.* A request for review of an adverse determination under the Privacy Act shall be addressed to or delivered in person to the Director, Office of Disclosure, Attention: OP:EX:D Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. A request for review of an adverse determination will be promptly referred by the Director, Office of Disclosure to the appropriate reviewing officer for his review and final determination.

(i) *Processing a request for review of adverse determination.* Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request for review

of an adverse determination by the appropriate reviewing officer, the reviewing officer will review the initial adverse determination, make a final determination whether to grant the request to amend the record in whole or in part, and notify the individual in writing of the final determination. If a final determination cannot be made within 30 days, the Commissioner of Internal Revenue may extend such 30-day period. The individual will be notified in writing within the 30 day period of the cause for the delay and the approximate time required to make a final determination. If it is determined by the reviewing officer that the request to amend the record will be granted, the reviewing officer will cause the requested changes to be made and the individual will be so notified. Upon request, an individual will be furnished with a copy of the record as amended subject to the payment of appropriate fees. On the other hand, if it is determined by the reviewing officer that the request to amend the record, or any portion thereof, will not be granted, the individual will be notified in writing of the final adverse determination. The notification of a final adverse determination will set forth the reasons for the refusal of the reviewing officer to amend the record. The notification shall include a statement informing the individual of the right to submit a concise statement for insertion in the record setting forth the reasons for the disagreement with the refusal of the reviewing officer to amend the record. In addition, the notification will contain a statement informing the individual of the right to seek judicial review by a United States district court of a final adverse determination.

(j) *Statement of disagreement.* Under 5 U.S.C. 552a (d)(3), an individual who disagrees with a final adverse determination not to amend a record subject to amendment under the Privacy Act may submit a concise statement for insertion in the record setting forth the reasons for disagreement with the refusal of the reviewing officer to amend the record. A statement of disagreement should be addressed to or delivered in person to the Director, Office of Disclosure, Attention: OP:EX:D, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. The Director, Office of Disclosure will forward the statement of disagreement to the appropriate designated official who will cause the statement to be inserted in the individual's record. Any such statement will be available to anyone to whom the record is subsequently disclosed and the prior recipients of the record will be provided with a copy of the statement of disagreement, to the extent an accounting of disclosures was maintained.

(k) *Judicial review.* If, after a review and final determination on a request to amend a record by the appropriate reviewing officer,

the individual is notified that the request will not be granted, or if, after the expiration of 30 days (not including Sundays, Saturdays, and legal public holidays) from the receipt of such request by the Director, Disclosure Operations Division, action is not taken thereon in accordance with the requirements of paragraph (d)(9) of this section, an individual may commence an action within the time prescribed by law in a U.S. District Court pursuant to 5 U.S.C. 552a (g)(1). The statute authorizes an action only against the agency. With respect to records maintained by the IRS, the agency is the Internal Revenue Service, not an officer or employee thereof. Service of process in such an action shall be in accordance with the Federal Rules of Civil Procedure (28 U.S.C. App.) applicable to actions against an agency of the United States. Where provided in such Rules, delivery of process upon the IRS must be directed to the Commissioner of Internal Revenue, Attention: CC:GLS, 1111 Constitution Avenue, NW, Washington, DC 20224. The district court will determine the matter de novo.

5. *Records transferred to Federal Records Centers.* Records transferred to the Administrator of General Services for storage in a Federal Records Center are not used by the Internal Revenue Service in making any determination about any individual while stored at such location and therefore are not subject to the provisions of 5 U.S.C. 552a (e)(5) during such time.

APPENDIX C—UNITED STATES CUSTOMS SERVICE

1. *In general.* This appendix applies to the United States Customs Service. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officer designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accounting of disclosures.* (a) For records which are maintained at the United

States Customs Service Headquarters, initial requests for notification and access to records and accountings of disclosures under 31 CFR 1.26, should be mailed or personally delivered to the Director, Office of Regulations & Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. The official who has authority over the maintenance of the file will have the authority to grant or deny the request.

(b) For records maintained at Regional Offices, initial requests for notification and access to records and accountings of disclosures under 31 CFR 1.26, should be mailed or personally delivered to the Regional Commissioner of Customs in whose region the records are located. This official shall have the authority to grant the request or deny the request. The appropriate location of the regional offices is specified in Customs Appendix A in "Privacy Act Issuances" published annually by the Office of the Federal Register.

(c) Each request shall comply with the identification and other requirements set forth in 31 CFR 1.26, and in the appropriate system notice in the "Privacy Act Issuances" published annually by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Request".

3. *Request for amendment of records.* (a) For records which are maintained at Customs Service Headquarters, initial requests for amendment of records under 31 CFR 1.27 (a) through (d) should be mailed or personally delivered to the Director, Office of Regulations & Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. The official who has authority over the maintenance of the file will have the authority to grant or deny the request.

(b) For records not maintained at Customs Service Headquarters, initial requests for amendment of records under 31 CFR 1.27 (a) through (d) should be mailed or personally delivered to the Regional Commissioner of Customs in whose region the records are located. This official shall have the authority to grant or deny the request. A request directed to a Regional Commissioner should be mailed to or personally delivered at the appropriate location specified in Customs Appendix A in "Privacy Act Issuances" published annually by the Office of the Federal Register.

(c) Each request shall comply with the identification and other requirements set forth in 31 CFR 1.27, and in the appropriate system notice in "Privacy Act Issuance" published by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Amendment Request".

4. *Administrative appeal of initial determination refusing to amend records.* Appellate determinations (including extensions of time

on appeal under 31 CFR 1.27 (e) with respect to all Customs Service records will be made by the Director, Office of Regulations & Rulings or the delegate of such official. All such appeals should be mailed or personally delivered to the United States Customs Service, Office of Regulations & Rulings, 1301 Constitution Avenue NW., Washington, DC 20229. Each appeal should be conspicuously labeled on the face of the envelope "Privacy Act Amendment Appeal".

5. *Statements of disagreement.* "Statements of Disagreement" pursuant to 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Chief Counsel, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

7. *Annual notice of systems of records.* The annual notice of the United States Customs Service systems of records required to be published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f), is included in the publication entitled "Privacy Act Issuances".

8. *Verification of identity.* Each request shall comply with the identification and other requirements set forth in 31 CFR 1.26 and in the appropriate system notice published by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Request".

APPENDIX D—UNITED STATES SECRET SERVICE

1. *In general.* This appendix applies to the United States Secret Service. It sets forth specific notification and access procedures with respect to particular systems of records including identification requirements, and time and places where records may be reviewed; identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the United States Secret Service, will be made by the Freedom of Information and Privacy Act Officer, United States Secret Service. Requests for notification should be made by mail or delivered personally between the hours of 9:00 a.m. and 5:30 of any day excluding Saturdays, Sundays, and legal holidays to: Privacy Act Request, Freedom of Information and Privacy Act Officer, United States Secret Service, Room 720, 1800 G Street NW., Washington, DC 20223.

a. *Identification requirements.* In addition to the requirements specified in 31 CFR 1.26, each request for notification, access or amendment of records made by mail shall contain the requesting individual's date and place of birth and a duly notarized statement signed by the requester asserting his or her identity and stipulating that the requesting individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretences is punishable by a fine of up to \$5,000.

b. *Individuals making requests in person.* Individuals making requests in person will be required to exhibit acceptable identifying documents such as employee identification numbers, drivers licenses, medical cards or other documents sufficient to verify the identity of the requester.

c. *Physical inspection of records.* Upon determining that a request for the physical inspection of records is to be granted, the requester shall be notified in writing of the determination, and when and where the requested records may be inspected. The inspection of records will be conducted at the Secret Service field office or other facility located nearest to the residence of the individual making the request. Such inspection shall be conducted during the regular business hours of the Secret Service Field Office or other facility where the disclosure is made. A person of his or her own choosing may accompany the individual making the request provided the individual furnishes a written statement authorizing the disclosure of that individual's record in the accompanying person's presence. Any disclosure of a record will be made in the presence of a representative of the United States Secret Service.

3. *Requests for amendment of records.* Initial determination under 31 CFR part 1, whether to grant requests to amend records will be made by the Freedom of Information and Privacy Act Officer. Requests should be mailed or delivered personally between the hours of 9:00 a.m. and 5:30 p.m. to: Privacy Act Amendment Request, Freedom of Information and Privacy Acts Officer, United

States Secret Service, Room 720, 1800 G Street NW., Washington, DC 20223.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27 including extensions of time on appeal, with respect to records of the United States Secret Service will be made by the Assistant Secretary of the Treasury for Enforcement. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Assistant Secretary of the Treasury for Enforcement, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

5. *Statements of disagreement.* "Statements of Disagreements" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing of the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the United States Secret Service General Counsel and shall be delivered to the following location: General Counsel, United States Secret Service, Room 843, 1800 G Street NW., Washington, DC 20223.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

APPENDIX E—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

1. *In general.* This appendix applies to the Bureau of Alcohol, Tobacco and Firearms. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a (3) (4) and (11) and published annually by

the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determination under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Alcohol, Tobacco, and Firearms, will be made by the Chief, Disclosure Branch, Office of the Assistant to the Director or the delegate of such officer. Requests may be mailed or delivered in person to: Privacy Act Request, Chief, Disclosure Branch, Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

3. *Requests for amendment of record.* Initial determinations under 31 CFR 1.27 (a) through (d) with respect to requests to amend records maintained by the Bureau of Alcohol, Tobacco and Firearms will be made by the Chief, Disclosure Branch, Office of the Assistant to the Director. Requests for amendment of records may be mailed or delivered in person to: Privacy Act Request, Chief, Disclosure Branch, Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

4. *Verification of identity.* (a) In addition to the requirements specified in 31 CFR 1.26(d) of this appendix, each request for notification, access or amendment of records made by mail shall contain the requesting individual's date and place of birth and a statement signed by the requester asserting his or her identity and stipulating that the requester understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is a misdemeanor and punishable by a fine of up to \$5,000 provided, that the Bureau of Alcohol, Tobacco and Firearms may require a signed notarized statement verifying the identity of the requester.

(b) Individuals making requests in person will be required to exhibit at least two acceptable identifying documents such as employee identification cards, driver's license, medical cards, or other documents sufficient to verify the identity of the requester.

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

5. *Request for physical inspection of records.* Upon determining that a request for the physical inspection of records is to be granted, the requester shall be notified in writing of the determination, and when and where the records may be inspected. The inspection of records will be made at the Bureau of Al-

cohol, Tobacco and Firearms Field Office or other facility located nearest to the residence of the individual making the request. Such inspection shall be conducted during the regular business hours of the field office or other facility where the disclosure is made. A person of the requester's own choosing may accompany the requester provided the requester furnishes a written statement authorizing the disclosure of the requester's record in the accompanying person's presence. The record inspection will be made in the presence of a representative of the Bureau. Following the inspection of the record, the individual will acknowledge in writing the fact that he or she had an opportunity to inspect the requested record.

6. *Requests for copies of records without prior physical inspection.* Upon determining that an individual's request for copies of his or her records without prior physical inspection is to be granted, the requester shall be notified in writing of the determination, and the location and time for his or her receipt of the requested copies. The copies will be made available at the Bureau of Alcohol, Tobacco and Firearms field office or other facility located nearest to the residence of the individual making the request. Copies shall be received by the requester during the regular business hours of the field office or other facility where the disclosure is made. Transfer of the copies to the individual shall be conditioned upon payment of copying costs and his presentation of at least two acceptable identifying documents such as employee identification cards, driver's license, medical cards, or other documents sufficient to verify the identity of the requester. Following the receipt of the copies, the individual will acknowledge receipt in writing.

7. *Administrative appeal of initial determination refusing to amend record.* Appellate determinations under 31 CFR 1.27(e) with respect to records of the Bureau of Alcohol, Tobacco and Firearms, including extensions of time on appeal, will be made by the Director or the delegate of such officer. Appeals should be addressed to, or delivered in person to: Privacy Act Amendment Appeal, Director, Bureau of Alcohol, Tobacco and Firearms, Room 4406, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

8. *Statements of disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e) (4) shall be filed with the official signing the notification within 35 days of the date of such notification and should be limited to one page.

9. *Service of process.* Service of process will be received by the Director of the Bureau of Alcohol, Tobacco and Firearms or the delegate of such official and shall be delivered to the following location: Director, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226, Attention: Chief Counsel.

10. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for each pertinent system.

APPENDIX F—BUREAU OF ENGRAVING
AND PRINTING

1. *In general.* This appendix applies to the Bureau of Engraving and Printing. It sets forth specific notification and access procedures with respect to particular systems of records including identification requirements, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a (e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances."

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Engraving and Printing, will be made by the head of the organizational unit having immediate custody of the records requested, or the delegate of such official. Requests for access to records contained within a particular system of records should be submitted to the address indicated for that system in the access section of the notices published by the Office of the Federal Register in "Privacy Act Issuances." Requests for information and specific guidance should be addressed to: Privacy Act Request, Disclosure Officer (Executive Assistant to the Director), Room 104–18M, Bureau of Engraving and Printing, Washington, DC 20228.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant request to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official.

Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Disclosure Officer (Executive Assistant to the Director), Bureau of Engraving and Printing, Room 104–18M, Washington, DC 20228.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Bureau of Engraving and Printing will be made by the Director of the Bureau or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Disclosure Officer (Executive Assistant to the Director), Room 104–18M, Bureau of Engraving and Printing, Washington, DC 20228.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(8) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Chief Counsel of the Bureau of Engraving and Printing and shall be delivered to the following location: Chief Counsel, Bureau of Engraving and Printing, Room 109–M, 14th and C Streets, SW., Washington, DC 20228.

7. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, or seeking an accounting of disclosures, must satisfy one of the following identification requirements before action will be taken by the Bureau of Engraving and Printing on any such request:

(i) An individual appearing in person may establish identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph, but do bear both a name and signature (such as a credit card).

(ii) An individual may establish identity through the mail by a signature, address, and one other identifier such as a photocopy of a driver's license or other document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(1)(3) for

requesting or obtaining access to records under false pretenses.

Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, the Executive Assistant or other designated official may require additional proof of an individual's identity before action will be taken on any request if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

8. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 522a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

APPENDIX G—FINANCIAL MANAGEMENT SERVICE

1. *In general.* This appendix applies to the Financial Management Service. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Financial Management Service, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and spe-

cific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Disclosure Officer, Financial Management Service, Room 108, Treasury Department Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27(a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Disclosure Officer, Financial Management Service, Department of the Treasury, Treasury Annex No. 1, Washington, DC 20226.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Financial Management Service will be made by the Commissioner or the delegate of such official. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal Commissioner, Financial Management Service (Privacy), Department of the Treasury, Room 618, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Commissioner, Financial Management Service or the delegate of such official and shall be delivered to the following location: Commissioner, Financial Management Service (Privacy), Department of the Treasury, Room 618, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW, Washington, DC 20226.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

APPENDIX H—UNITED STATES MINT

1. *In general.* This appendix applies to the United States Mint. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the United States Mint will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests should be directed to the Superintendent or Officer in charge of the facility in which the records are located or to the Chief, Administrative Programs Division. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, N.W, Washington, DC 20220.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the Mint installation having immediate custody of the records or the delegated official. Requests should be mailed or delivered personally to: Privacy Act Amendment Request, Freedom of Information and Privacy Acts Officer, United States Mint, Judiciary Square Building, 633 3rd Street, Washington, DC 20220.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27 including extensions of time on appeal, with respect to

records of the United States Mint will be made by the Director of the Mint or the delegate of the Director. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Director of the Mint and shall be delivered to the following location: Director of the Mint, Judiciary Square Building, 633 3rd street, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent systems.

APPENDIX I—BUREAU OF THE PUBLIC DEBT

1. *In general.* This appendix applies to the Bureau of the Public Debt. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officer designated to grant extension of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Public Debt, will be made by the head of the organizational unit having

immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Information Officer, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW, Room 553, Washington, DC 20239.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Information Officer, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW., Room 553, Washington, DC 20239.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Bureau of the Public Debt will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Chief Counsel, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW., Room 503, Washington, DC 20239.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Chief Counsel of the Bureau of the Public Debt and shall be delivered to the following location: Chief Counsel, Bureau of the Public Debt, Department of the Treasury, 999 E Street, NW., Room 503, Washington, DC 20239.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

APPENDIX J—OFFICE OF THE COMPTROLLER OF THE CURRENCY

1. *In general.* This appendix applies to the Office of the Comptroller of the Currency. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26 whether to grant requests for notification and access to records and accountings of disclosures for the Office of the Comptroller of the Currency will be made by the head of the organizational unit having immediate custody of the records requested or the delegate of that official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published biennially by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

3. *Requests for amendment of records.* Initial determinations under 31 CFR 1.27 (a) through (d) whether to grant requests to amend records will be made by the Comptroller's delegate or the head of the organizational unit having immediate custody of the records or the delegate of that official. Requests for amendment shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Office of the Comptroller of

the Currency will be made by the Comptroller of the Currency or the Comptroller's delegate. Appeals shall be mailed or delivered personally to: Disclosure Officer, Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the OCC's Director of Communications at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process shall be delivered to the Chief Counsel or the Chief Counsel's delegate at the following location: Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

[52 FR 26305, July 14, 1987, as amended at 60 FR 57333, Nov. 15, 1995]

APPENDIX L—FEDERAL LAW ENFORCEMENT TRAINING CENTER

1. *In general.* This appendix applies to the Federal Law Enforcement Training Center. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosure of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register, in "Privacy Act Issuances".

2. *Requests for notification and access to records and accounting of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accounting of disclosures for the

Federal Law Enforcement Training Center, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Library Building 262, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

3. *Requests for amendment of records.* Initial determinations under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Federal Law Enforcement Training Center will be made by the Assistant Secretary (Enforcement), Department of the Treasury or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, FLETC, Assistant Secretary (Enforcement), Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 4312, Washington, DC 20220.

5. *Statements of disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such official and shall be delivered to the following location: General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26

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and 1.27 are indicated in the notice for the pertinent system.

[52 FR 26305, July 14, 1987. Redesignated at 65 FR 2334, Jan. 14, 2000]

**APPENDIX M—OFFICE OF THRIFT
SUPERVISION**

1. *In general.* This appendix applies to the Office of Thrift Supervision. It sets forth specific notification and access procedures with respect to particular systems of records, and identifies the officers designated to make the initial determinations with respect to notification and access to records, the officers designated to make the initial and appellate determinations with respect to requests for amendment of records, the officers designated to grant extensions of time on appeal, the officers with whom "Statement of Disagreement" may be filed, the officer designated to receive services of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published biennially by the Office of the Federal Register in "Privacy Act Issuances."

2. *Requests for notification and access to records and accounting of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Office of Thrift Supervision, will be made by the head of the organizational unit having immediate custody of the records requested, or the delegate of such official. This information is contained in the appropriate system notice in the "Privacy Act Issuances," published biennially by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records should be addressed to: Privacy Act Request, Chief, Disclosure Branch, Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Requests may be delivered in person to: Office of Thrift Supervision, Information Services Division, 1700 G Street, NW., Washington, DC.

3. *Requests for amendments of records.* Initial determinations under 31 CFR 1.27 (a) through (d) with respect to requests to amend records maintained by the Office of Thrift Supervision will be made by the head of the organization or unit having immediate custody of the records or the delegates of such official. Requests for amendment of records should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send these

requests should be addressed to: Privacy Act Amendment Request, Chief, Disclosure Branch, Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Privacy Act Amendment Requests may be delivered in person to: Office of Thrift Supervision, Information Services Division, 1700 G Street, NW., Washington, DC.

4. *Administrative appeal of initial determination refusing to amend record.* Appellate determination under 31 CFR 1.27(e) with respect to records of the Office of Thrift Supervision, including extensions of time on appeal, will be made by the Director, Public Affairs, Office of Thrift Supervision, or the delegate of such official, as limited by 5 U.S.C. 552a(d) (2) and (3). Appeals made by mail should be addressed as indicated in the letter of initial decision or to: Privacy Act Amendment Request, Chief, Disclosure Branch, Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Appeals may be delivered in person to: Office of Thrift Supervision, Information Services Division, 1700 G Street, NW., Washington, DC.

5. *Statements of Disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e)(4) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Corporate Secretary of the Office of Thrift Supervision or the delegate of such official and shall be delivered to the following location: Corporate Secretary, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

7. *Annual notice of systems of record.* The annual notice of systems of records required to be published by the Office of the Federal Register is included in the publication entitled "Privacy Act Issuances," as specified in 5 U.S.C. 552a(f). Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 and (8) below, and locations for access are indicated in the notice for the pertinent system.

8. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the Office of Thrift Supervision on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish identity by the presentation of a single official document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear

both a name and signature (such as a driver's license or credit card).

(i) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses. Alternatively, an individual may provide a statement that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses which is subscribed by the individual as true and correct under penalty of perjury pursuant to 28 U.S.C. 1746. Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

[60 FR 31633, June 16, 1995. Redesignated at 65 FR 2334, Jan. 14, 2000]

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Sec.

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