

Office of the Secretary of Defense

§ 271.3

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[63 FR 3472, Jan. 23, 1998, as amended at 63 68195, Dec. 10, 1998]

PART 271—OBTAINING INFORMATION FROM FINANCIAL INSTITUTIONS

Sec.

271.1 Purpose and applicability.

271.2 Policy.

271.3 Procedures.

271.4 Reports.

AUTHORITY: 12 U.S.C. 3401 et seq.

SOURCE: 46 FR 880, Jan. 5, 1981, unless otherwise noted. Redesignated at 56 FR 64482, Dec. 10, 1991.

§ 271.1 Purpose and applicability.

(a) This part establishes procedures for the National Security Agency/Central Security Service (NSA/CSS) to obtain records from financial institutions and implements 12 U.S.C. 3401-3422, 92 Stat. 3697 (Pub. L. 95-630).

(b) The provisions of this part apply only to financial records maintained by any office of a bank, savings bank, credit card issuer, industrial loan company, trust company, savings and loan, building and loan, homestead association (including cooperative banks), credit union, or consumer finance institution that is located in any district, state or territory of the United States.

(c) All NSA/CSS elements are subject to the provisions of this part.

§ 271.2 Policy.

(a) Financial records shall be sought regarding any individual who is an applicant for employment with the NSA/CSS or who has a current security clearance and/or access granted by the NSA/CSS, and regarding any other individual assigned or detailed to the NSA/CSS when such records are relevant to a final determination with respect to employment, continued as-

signment or detail, clearance, access or other related actions.

(b) The NSA/CSS shall seek the consent of an individual when obtaining that individual's financial records from a financial institution. Refusal of an individual to provide such consent may be grounds for denying access to all Sensitive Compartmented Information (SCI) and to other classified information in NSA/CSS custody if the circumstances of such refusal or the nature of the records sought prevent the NSA/CSS from determining that such access is or would be clearly consistent with the national security.

(c) Any actions relative to obtaining financial records without an individual's consent shall be conducted in accordance with the provisions of DoD Directive 5400.12, found in 32 CFR part 275, as appropriate.

[46 FR 880, Jan. 5, 1981. Redesignated and amended at 56 FR 64482, Dec. 10, 1991]

§ 271.3 Procedures.

(a) Representatives of NSA/CSS Security shall use a consent form as set out in Enclosure 2 of 32 CFR part 275, relative to obtaining financial records. A copy of the consent form shall be made a part of the individual's NSA/CSS security file, and an additional record copy of the form kept be security for the purpose of an annual report. A certification form as set out in Enclosure 4 of 32 CFR part 275 shall be provided to financial institutions by security representatives along with the consent form certifying compliance with 12 U.S.C. 3401 et seq.

(b) Procedures used by security regarding matters referenced in paragraph (a) of this section, shall be established on a case-by-case basis and shall be in consonance with the appropriate provisions of 32 CFR part 275.

(c) Financial records obtained under 12 U.S.C. 3401 et seq. shall be marked: "This record was obtained pursuant to the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., and may not be transferred to another federal agency or department without prior compliance with the transferring requirements of 12 U.S.C. 3412." Except in accordance with paragraph (e) of this section such records shall not be transferred to another agency or department

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outside the Department of Defense unless the Chief, Security, or delegate certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department. Such certificates shall be maintained in the appropriate NSA/CSS security file with copies of the released records.

(d) Unless alternate procedures are involved as referenced in paragraph (b) of this section, when financial records have been transferred to another agency, a security representative shall, within 14 days, personally serve or mail to the individual whose records have been transferred, at his or her last known address, a copy of the certificate required by paragraph (c) of this section, and the following notice: "Copies of or information contained in your financial records lawfully in possession of the NSA/CSS have been furnished to (name of agency) pursuant to the Right to Financial Privacy Act of 1978 for the following purpose(s): (state reason). If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974."

(e) In cases where another federal agency authorized to conduct foreign intelligence or foreign counterintelligence activities requests a financial record held by the NSA/CSS, and makes such a request for the purpose of conducting that Agency's protective functions, the NSA/CSS may release the information without notifying the individual to whom the financial record pertains.

[46 FR 880, Jan. 5, 1981. Redesignated and amended at 56 FR 64482, Dec. 10, 1991]

### § 271.4 Reports.

Security shall compile an annual report setting forth the data required in the Right to Financial Privacy Act of 1978. The report shall be submitted to the Defense Privacy Board, Office of the Deputy Assistant Secretary of Defense (Administration), by 15 February annually, and shall be assigned the Report Control Symbol DD-COMP(A) of 1538.

## 32 CFR Ch. I (7-1-02 Edition)

### PART 272—ADMINISTRATION AND SUPPORT OF BASIC RESEARCH BY THE DoD

#### Sec.

- 272.1 Purpose.
- 272.2 Definition of basic research.
- 272.3 Background.
- 272.4 Principles.
- 272.5 Policy.
- 272.6 Implementation.

AUTHORITY: Secs. 2202, 2301-2314, 70A Stat. 127-133; secs. 1-3, 72 Stat. 1793; 5 U.S.C. 301; 10 U.S.C. 2202, 2301-2314, 42 U.S.C. 1891-1893; E.O. 10521 (19 FR 1499, as amended by sec. 6(b), E.O. 10807, 24 FR 1899).

SOURCE: 26 FR 11831, Dec. 9, 1961, unless otherwise noted.

#### § 272.1 Purpose.

This part states the policy of the Department of Defense on the administration and support of basic research.

#### § 272.2 Definition of basic research.

Basic research is that type of research which is directed toward increase of knowledge in science. It is research where the primary aim of the investigator is a fuller understanding of the subject under study.

#### § 272.3 Background.

(a) E.O. 10521, as amended, "Administration of Scientific Research by Agencies of the Federal Government," (19 FR 1499) provides broad guidelines for administration of basic scientific research by Federal agencies. These guidelines state that while the National Science Foundation shall be increasingly responsible for providing Federal support for general purpose basic research, the conduct and support by other Federal agencies of basic research in areas which are closely related to their missions is recognized as important and desirable and shall continue.

(b) The Director of Defense Research and Engineering is responsible to the Secretary of Defense for the review and direction of the basic research program of the military departments and other agencies of the Department of Defense authorized to conduct or support basic research, and shall ensure that this program is executed according to the provisions of E.O. 10521. This review