

copy of the request, along with the following notice, shall be served on the person or mailed to the person's last known mailing address as soon as practicable after the records have been obtained unless a delay of notice has been obtained under appendix H of this part.

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

Mailings under this paragraph shall be by certified or registered mail.

#### APPENDIX G TO PART 275—RELEASING INFORMATION OBTAINED FROM FINANCIAL INSTITUTIONS

A. Financial records obtained under 12 U.S.C. chapter 35 shall be marked: "This record was obtained pursuant to the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 *et seq.*, and may not be transferred to another Federal Agency or Department without prior compliance with the transferring requirements of 12 U.S.C. 3412."

B. Financial records obtained under this part shall not be transferred to another Agency or Department outside the Department of Defense unless the head of the transferring law enforcement office, personnel security element, or intelligence organization, or designee, certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry, or intelligence or counterintelligence activity (to include investigation or analyses related to international terrorism) within the jurisdiction of the receiving Agency or Department. Such certificates shall be maintained with the DoD Component along with a copy of the released records.

C. Subject to paragraph D. of this appendix, unless a delay of customer notice has been obtained under appendix H of this part, the law enforcement office or personnel security element shall, within 14 days, personally serve or mail to the customer, at his or her last known address, a copy of the certificate required by paragraph B., along with the following notice:

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

have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974."

D. If a request for release of information is from a Federal Agency, as identified in E.O. 12333, authorized to conduct foreign intelligence or foreign counterintelligence activities, the transferring DoD Component shall release the information without notifying the customer, unless permission to provide notification is given in writing by the requesting Agency.

E. Whenever financial data obtained under this part is incorporated into a report of investigation or other correspondence; precautions must be taken to ensure that:

1. The reports or correspondence are not distributed outside the Department of Defense except in compliance with paragraph B.; and

2. The report or other correspondence contains an appropriate warning restriction on the first page or cover. Such a warning could read as follows:

"Some of the information contained herein (cite specific paragraph) is financial record information which was obtained pursuant to the Right to Privacy Act of 1978, 12 U.S.C. 3401 *et seq.* This information may not be released to another Federal Agency or Department outside the Department of Defense except for those purposes expressly authorized by Act."

#### APPENDIX H TO PART 275—PROCEDURES FOR DELAY OF NOTICE

A. The customer notice required when seeking an administrative subpoena or summons (paragraph B. of appendix C to this part), obtaining a search warrant (paragraph B. of appendix D to this part), seeking a judicial subpoena (paragraph B. to appendix C to this part), making a formal written request (paragraph B. to appendix C to this part), obtaining emergency access (paragraph C. of appendix F to this part), or transferring information (paragraph C. of appendix G to this part), may be delayed for an initial period of 90 days and successive periods of 90 days. The notice required when obtaining a search warrant (paragraph B. of appendix D to this part) may be delayed for a period of 180 days and successive periods of 90 days. A delay of notice may only be made by an order of an appropriate court if the presiding judge or magistrate finds that:

1. The investigation is within the lawful jurisdiction of the Government authority seeking the records.

2. There is reason to believe the records being sought are relevant to a law enforcement inquiry.

3. There is reason to believe that serving the notice will result in:

a. Endangering the life or physical safety of any person.

b. Flight from prosecution.