

or assured if the institution retains discretion not to pay an overdraft.

- *Distinguish overdraft protection services from "free" account features.* Institutions should not promote "free" accounts and overdraft protection programs in the same advertisement in a manner that suggests the overdraft protection program is free of charges.

- *Clearly disclose program fees.* In communications about overdraft protection programs, clearly disclose the dollar amount of the fee for each overdraft and any interest rate or other fees that may apply. For example, rather than merely stating that the institution's standard NSF fee will apply, institutions should restate the dollar amount of any applicable fee or interest charge.

- *Clarify that fees count against the disclosed overdraft protection dollar limit.* Consumers should be alerted that the fees charged for covering overdrafts, as well as the amount of the overdraft item, will be subtracted from any overdraft protection limit disclosed.

- *Demonstrate when multiple fees will be charged.* If promoting an overdraft protection program, clearly disclose, where applicable, that more than one overdraft fee may be charged against the account per day, depending on the number of checks presented on, and other withdrawals made from, the consumer's account.

- *Explain impact of transaction clearing policies.* Clearly explain to consumers that transactions may not be processed in the order in which they occurred, and that the order in which transactions are received by the institution and processed can affect the total amount of overdraft fees incurred by the consumer.

- *Illustrate the type of transactions covered.* Clearly disclose that overdraft fees may be imposed on transactions such as ATM withdrawals, debit card transactions, preauthorized automatic debits, telephone-initiated transfers or other electronic transfers, if applicable, to avoid implying that check transactions are the only transactions covered.

#### *Program Features and Operation*

- *Provide election or opt-out of service.* Obtain affirmative consent of consumers to receive overdraft protection. Alternatively, where overdraft protection is automatically provided, permit consumers to "opt out" of the overdraft program and provide a clear consumer disclosure of this option.

- *Alert consumers before a transaction triggers any fees.* When consumers attempt to withdraw or

transfer funds made available through an overdraft protection program, provide a specific consumer notice, where feasible, that completing the withdrawal may trigger the overdraft fees (for example, it presently may be feasible at a branch teller window). This notice should be presented in a manner that permits consumers to cancel the attempted withdrawal or transfer after receiving the notice. If this is not feasible, then post notices (e.g., on proprietary ATMs) explaining that transactions may be approved that overdraw the account and fees may be incurred. Institutions should consider making access to the overdraft protection program unavailable through means other than check transactions, if feasible.

- *Prominently distinguish balances from overdraft protection funds availability.* When disclosing a single balance for an account by any means, institutions should not include overdraft protection funds in that account balance. The disclosure should instead represent the consumer's own funds available without the overdraft protection funds included. If more than one balance is provided, separately (and prominently) identify the balance without the inclusion of overdraft protection.

- *Promptly notify consumers of overdraft protection program usage each time used.* Promptly notify consumers when overdraft protection has been accessed, for example, by sending a notice to consumers the day the overdraft protection program has been accessed. The notification should identify the date of the transaction, the type of transaction, the overdraft amount, the fee associated with the overdraft, the amount necessary to return the account to a positive balance, the amount of time consumers have to return their accounts to a positive balance, and the consequences of not returning the account to a positive balance within the given timeframe. Notify consumers if the institution terminates or suspends the consumer's access to the service, for example, if the consumer is no longer in good standing.

- *Consider daily limits on the consumer's costs.* Consider imposing a cap on consumers' potential daily costs from the overdraft program. For example, consider limiting daily costs from the program by providing a numerical limit on the total overdraft transactions that will be subject to a fee per day or by providing a dollar limit on the total fees that will be imposed per day.

- *Monitor overdraft protection program usage.* Monitor excessive

consumer usage, which may indicate a need for alternative credit arrangements or other services, and inform consumers of these available options.

- *Fairly report program usage.* Institutions should not report negative information to consumer reporting agencies when the overdrafts are paid under the terms of overdraft protection programs that have been promoted by the institutions.

This concludes the text of the final Joint Guidance on Overdraft Protection Programs.

Dated: February 15, 2005.

**Julie L. Williams,**  
*Acting Comptroller of the Currency.*

By order of the Board of Governors of the Federal Reserve System, February 17, 2005.

**Robert deV. Frierson,**  
*Deputy Secretary of the Board.*

Dated at Washington, DC, the 16th day of February, 2005.

By order of the Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*

By the National Credit Union Administration Board on February 17, 2005.

**Mary F. Rupp,**  
*Secretary of the Board.*

[FR Doc. 05-3499 Filed 2-23-05; 8:45 am]

**BILLING CODE 4810-33-P; 6210-01-P; 6714-01-P; 7535-01-P**

---

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Privacy Act of 1974, as Amended; System of Records

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of Proposed New Privacy Act System of Records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury, Internal Revenue Service, gives notice of a proposed new system of records entitled "Treasury/IRS 00.009—Taxpayer Assistance Center (TAC) Recorded Quality Review Records."

**DATES:** Comments must be received no later than March 28, 2005. This new system of records will be effective April 5, 2005 unless the IRS receives comments that would result in a contrary determination.

**ADDRESSES:** Comments should be sent to the Office of Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Avenue, NW.,

Washington, DC 20224. Comments will be made available for inspection and copying upon request in the Freedom of Information Reading Room (Room 1621), at the above address.

**FOR FURTHER INFORMATION CONTACT:** Buz Dereniuk, Territory Manager, W: CAR: FA, 777 Sonoma Ave., Room 112, Santa Rosa, California 95404, (707) 523-4673 (ext 254) (not a toll free number).

**SUPPLEMENTARY INFORMATION:** Without an effective quality review system, the IRS cannot be assured that its employees are providing correct answers to taxpayer questions.

Currently Taxpayer Assistance Center (TAC) Managers monitor employees by occasionally sitting with them and observing the taxpayer interaction. This produces an artificial environment that does not give a true representation of employee performance, training needs, and taxpayer service abilities. A November 22, 2002, Treasury Inspector General for Tax Administration (TIGTA) review, available at <http://www.ustreas.gov/tigta/2003reports/200340023fr.html>, recommended that the Commissioner, Wage and Investment (W&I) Division, explore options such as planned remote monitoring (a.k.a. contact recording) by TAC managers for conducting quality reviews of TAC employees on a regular basis. Contact recording would remove advance notice of a manager's review, and the intrusion of the manager being physically present during the contact. It will capture an accurate recordation of employees' interaction with taxpayers in a more natural and realistic setting. The automated contact recording system will allow the IRS to improve the quality of responses to taxpayers by providing an efficient and effective means of assessing employee performance. Managers will review any audio recordings and captured computer screen images and document their evaluations of employee performances. Managers and employees may review the audio recordings and captured computer screen images when evaluating employee contacts with taxpayers. Each manager can only access records of contacts by employees under that manager's supervision. Quality reviewers will review records of contacts for purposes of identifying issues or topics about which many Taxpayer Response Representatives (TRR) would benefit from additional training, and to determine program-wide accuracy rates of information provided.

The ability to select any contact for review purposes will result in greater fairness and timeliness of reviews of

employees, the ability to sample employee performance nationwide, and improved quality of assistance to taxpayers. Also, in cases where managers are not in the same location as their employees, the time and expense of travel will be significantly reduced. By recording taxpayer contacts and tracking employee actions, the IRS will be able to improve its service to the public by providing specific, tangible feedback to employees. As a result, targeted training will be provided to employees either on-line or in one-on-one coaching sessions.

Taxpayers will be notified by signs clearly posted at the TAC entry and on workstations of TRRs that their contacts may be recorded for quality improvement purposes. Taxpayers may opt out of being recorded by notifying the IRS employee. If so notified, the employee will stop any recording and will continue to assist the taxpayer. Audio recordings and captured computer screen images will be kept long enough for employee evaluation and quality review, generally not more than 45 days. However, the agency may keep audio recordings and captured computer screen images for a longer period under certain circumstances, including, but not limited to, resolution of matters pertaining to employee performance, security (threat, altercation, etc.), or conduct-related issues.

The new system of records report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated November 30, 2000.

The proposed new system of records entitled "Treasury/IRS 00.009—Taxpayer Assistance Center (TAC) Recorded Quality Review Records" is published in its entirety below.

Dated: February 15, 2005.

**Arnold I. Havens,**  
*General Counsel.*

**Treasury/IRS 00.009**

**SYSTEM NAME:**

Taxpayer Assistance Center (TAC) Recorded Quality Review Records—Treasury/IRS

**SYSTEM LOCATION:**

Records in this system of records will eventually be located at every Taxpayer Assistance Center (TAC). An up-to-date

list of these sites is available on-line at: <http://www.irs.gov/localcontacts/index.html>.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

IRS employees who respond to taxpayer assistance contacts in person.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Audio recordings of conversations with taxpayers, captured computer screen images of taxpayer records reviewed by Taxpayer Response Representatives during the conversation, and associated records required to administer IRS quality review and employee performance feedback programs.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; 26 U.S.C. 7801 and 7803.

**PURPOSE:**

Records in this system of records are used to evaluate and improve employee performance and the quality of service at Taxpayer Assistance Centers.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Records other than returns and return information may be used to:

(1) Disclose information during a proceeding before a court, administrative tribunal, or other adjudicative body when: (a) The IRS or any component thereof, (b) any IRS employee in his or her official capacity, (c) any IRS employee in his or her personal capacity where the IRS or the Department of Justice has agreed to provide representation for the employee, or (d) the United States is a party to, has an interest in, or is likely to be affected by, such proceeding, and the IRS (or its DOJ counsel) determines that the information is relevant and necessary to the proceeding and no privilege is asserted. Information may also be disclosed to the neutral to resolve issues of relevancy, necessity, or privilege pertaining to the information.

(2) Disclose information to the Department of Justice when seeking legal advice or for use in any proceeding, or in preparation for any proceeding, when: (a) The IRS or any component thereof, (b) any IRS employee in his or her official capacity, (c) any IRS employee in his or her individual capacity under circumstances in which the IRS or the Department of Justice has agreed to provide representation for the

employee, or (d) the United States government is a party to the proceeding or has an interest in such proceeding, and the IRS (or its DOJ counsel) determines that the records are both relevant and necessary to the proceeding or advice sought.

(3) Disclose information to a contractor to the extent necessary for the performance of a contract.

(4) Disclose to an appropriate Federal, State, local, tribal, or foreign agency, or other public authority, responsible for implementing or enforcing, or for investigating or prosecuting the violation of, a statute, rule, regulation, order, or license, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law or regulation and the information disclosed is relevant to any regulatory, enforcement, investigative, or prosecutorial responsibility of the receiving authority.

(5) Disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation, and no privilege is asserted.

(6) Disclose information to an arbitrator, mediator, or similar person, and to the parties, in the context of alternative dispute resolution, to the extent relevant and necessary to permit the arbitrator, mediator, or similar person to resolve the matters presented, including asserted privileges.

(7) Disclose information to the Office of Personnel Management, Merit Systems Protection Board, the Office of Special Counsel, or the Equal Employment Opportunity Commission when the records are relevant and necessary to resolving personnel, discrimination, or labor management matters within the jurisdiction of these offices.

(8) Disclose information to the Federal Labor Relations Authority, including the Office of the General Counsel of that authority, the Federal Service Impasses Board, or the Federal Mediation and Conciliation Service when the records are relevant and necessary to resolving any labor management matter within the jurisdiction of these offices.

(9) Disclose information to the Office of Government Ethics when the records are relevant and necessary to resolving any conflict of interest, conduct, financial statement reporting, or other ethics matter within the jurisdiction of that office.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**  
**STORAGE:**

Paper records and machine-readable media.

**RETRIEVABILITY:**

Records are retrieved by the name of the employee to whom they apply.

**SAFEGUARDS:**

Safeguard access controls will not be less than those provided for by IRM 25.10.1, Information Technology Security Policy and Guidance, and IRM 1.16, Manager's Security Handbook.

**RETENTION AND DISPOSAL:**

Record retention will be established in accordance with 36 CFR, Chapter XII—National Archives and Records Administration, Part 1228, Subpart B—Scheduling Records. Audio recordings and captured computer screen images will be kept long enough for managerial review and feedback, and for quality review purposes, generally not more than 45 days. However, the agency may keep audio recordings and captured computer screen images for a longer period under certain circumstances, including, but not limited to, resolution of matters pertaining to poor employee performance, security (threat, altercation, etc.), or conduct-related issues.

**SYSTEM MANAGER AND ADDRESS:**

Commissioner, Wage and Investment Division, 401 West Peachtree Street Northwest, Stop 11—WI, Atlanta, GA 30308, (404) 338-7060 (not a toll free number).

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine if this system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the system manager address listed above.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to any record contained in this system of records, or seeking to contest its contents, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the system manager at the address listed above.

**CONTESTING RECORD PROCEDURES:**

See "Record Access Procedures" above for seeking amendment of records that are not tax records.

**RECORD SOURCE CATEGORIES:**

Taxpayers, Employees, IRS records of taxpayer accounts.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 05-3474 Filed 2-23-05; 8:45 am]

**BILLING CODE 4830-01-U**

**DEPARTMENT OF THE TREASURY**

**Office of Thrift Supervision**

[AC-2: OTS Nos. H-4152 and 06210]

**First Federal of Northern Michigan Bancorp, Inc., Alpena, MI; Approval of Conversion Application**

Notice is hereby given that on February 11, 2005, the Assistant Managing Director, Examinations and Supervision—Operations, Office of Thrift Supervision (OTS), or her designee, acting pursuant to delegated authority, approved the application of First Federal of Northern Michigan, Alpena, Michigan, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202-906-5922 or e-mail:

*Public.Info@OTS.Treas.gov*) at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552, and OTS Southeast Regional Office, 1475 Peachtree Street, NE., Atlanta, GA 30309.

Dated: February 18, 2005.

By the Office of Thrift Supervision.

**Nadine Y. Washington,**

*Corporate Secretary.*

[FR Doc. 05-3547 Filed 2-23-05; 8:45 am]

**BILLING CODE 6720-01-M**

**DEPARTMENT OF THE TREASURY**

**Office of Thrift Supervision**

[AC-01; OTS Nos. 17970, H-4024 and H-4153]

**The Rome Savings Bank, Rome, MHC, New Rome Bancorp, Inc., Rome, NY; Approval of Conversion Applications**

Notice is hereby given that on February 11, 2005, the Assistant Managing Director, Examinations and Supervision—Operations, Office of Thrift Supervision ("OTS"), or her designee, acting pursuant to delegated authority, approved the application of Rome, MHC, and The Rome Savings Bank, Rome, New York, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (phone number: 202-906-5922 or e-mail