

Administrative Office of the U.S. Courts; for the Postal Service, the Postmaster General; and for any other independent establishment that is an entity of the Federal Government, the head of the establishment. For purposes of this subpart, *agency head* is also deemed to include the designated representative of the head of an executive department as defined in 5 U.S.C. § 101, except that, for provisions dealing with law enforcement officers and firefighters, the designated representative must be a department headquarters-level official who reports directly to the executive department head, or to the deputy department head, and who is the sole such representative for the entire department.

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7. In section 842.805 paragraph (d) is revised to read as follows:

§ 842.805 Withholding and contributions.

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(d) Upon proper application from an employee, former employee or eligible survivor of a former employee, an employing agency or former employing agency will pay a refund or erroneous additional withholdings for service that is found not to have been covered service. If an individual has paid to OPM a deposit or redeposit, including the additional amount required for covered service, and the deposit is later determined to be erroneous because the service was not covered service, OPM will pay the refund, upon proper application, to the individual, without interest.

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FEDERAL RESERVE SYSTEM

12 CFR Part 261a

[Docket No. R-0826]

Rules Regarding Access to Personal Information Under the Privacy Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: As part of its regulatory review and improvement process, the Board of Governors of the Federal Reserve System (Board) has revised and updated its Rules Regarding Access to Personal Information Under the Privacy Act (Access Rules).

EFFECTIVE DATE: February 16, 1995.

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SUPPLEMENTARY INFORMATION: The Board's Access Rules implement the Privacy Act of 1974 (5 U.S.C. 552a). This revision of the Board's Access Rules is a part of the Board's ongoing program to review and update its existing regulations. There have been no substantive changes to the Privacy Act recently, accordingly, there is no need for substantive changes to the Board's Access Rules. The most significant change made to the Board's Access Rules is the establishment of special procedures for requesting access or amendment to records maintained by the Board's Office of the Inspector General, which was established in 1989.

Most other changes are procedural or administrative in nature. The revised regulation clarifies that the Secretary of the Board is the official custodian of records with the delegated authority to respond to requests for access or amendment, except for requests for records maintained by the Office of the Inspector General. The duplication fees to be charged for documents produced in response to a request for access under the Privacy Act are the same as those charged for documents produced in response to a request under the Freedom of Information Act (FOIA), because requests under the Privacy Act are likely to be processed also under FOIA. (No fees for search or review are established, because such fees are not authorized under the Privacy Act.)

The Board has changed the special procedures for release of medical records to clarify that release of medical records through a licensed physician does not permit the licensed physician to withhold the medical records from the requester. Rather, the licensed physician is expected to provide access to the medical records while explaining sensitive or complex information contained in the medical records.

Finally, the revised Access Rules specifically list the Board's systems of records that are exempt from certain provisions of the Privacy Act to the extent they contain either law enforcement information or reference information provided in confidence.

The revised Access Rules were published for public comment on February 7, 1994 (59 FR 5548). The Board received only three comments on the proposed Rules—two favorable comments (one from a commercial bank

and one from a Federal Reserve Bank), and one unfavorable comment from a trade association. The unfavorable comment did not object to the proposed Rules, but objected to an existing system of records, the Chain Banking Reference System. (The notice for this system of records was published on November 9, 1988, 53 FR 45392.) The commenter expressed concern that confidential information in the Chain Banking Reference System could be released to the public. This apprehension is misplaced, because information contained in this system of records is information that is contained elsewhere in Board records, and it is no more likely to be released from the system of records than it is from other Board records. In fact, it is less likely to be released from the system of records, because, in general, the Board is prohibited from releasing such Privacy Act information except with the consent of the individual concerned.

One change has been made to the revised Access Rules since they were published for comment. The published Access Rules contained a delegation to the Secretary of authority to approve any new system of records or amend any existing system of records. Upon further consideration, the Board has changed this delegation to authorize the Secretary to approve or amend only non-exempt systems of records. An exempt system of records is one which is exempt from certain provisions of the Privacy Act, such as disclosure to the individual identified in the records. Any exempt system of records must be listed in the Board's Access Rules. Accordingly, adoption of a new system of records would require amendment of the Board's Access Rules to add it to the list, and this can not be done by the Secretary. Changes to an existing exempt system of records may also require changes to the Board's Rules. Accordingly, the Board has decided to delegate to the Secretary authority to approve or amend only non-exempt systems of records.

As required by Regulatory Flexibility Act (5 U.S.C. 604(a)), a "succinct statement of the need for, and objectives of the rule" is found elsewhere in this preamble. The provisions in this rule shall be applicable to all persons submitting requests for access to information under the Privacy Act of 1974 (5 U.S.C. 552a). An exemption for small entities is not appropriate because the Privacy Act protects the privacy of individuals from unauthorized access by any entity. This rule will not have any significant impact on small entities.