

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; System of Records

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of Modified Systems of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the FDIC proposes the following changes to its Privacy Act system of records notices: (1) Revise one existing routine use and add one new routine use in all system notices to conform with Office of Management and Budget (OMB) guidance to federal agencies regarding response and remedial efforts in the event of a data breach; (2) Add one new routine use to permit disclosure of Freedom of Information Act (FOIA) request records to the Office of Government Information Services (OGIS) so that it may fulfill its statutory responsibilities; and (3) Make non-substantive editorial and formatting changes to all system notices for clarity and to conform to the updated system notice template prescribed in OMB Circular A-108. We hereby publish this notice for comment on the proposed actions.

DATES: This action will become effective on **[Date of Publication]**. The routine uses in this action will become effective 30 days after publication, unless the FDIC makes changes based on comments received. Written comments should be submitted on or before the effective date.

ADDRESSES: Interested parties are invited to submit written comments identified by *Privacy Act Systems of Records* by any of the following methods:

- *Federal eRulemaking Portal:* <http://regulations.gov>. Follow the instructions for submitting comments.
- *Agency Website:* <https://www.FDIC.gov/regulations/laws/federal>. Follow the instructions for submitting comments on the FDIC website.
- *Email:* Comments@fdic.gov.
- *Mail:* Gary Jackson, Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW, Virginia Square D-8012, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Shannon Dahn, Chief, Privacy Section, Phone (703) 516-1162, Email sdahn@fdic.gov; or Gary Jackson, Counsel, Phone (703) 562-2677, Email, gjackson@fdic.gov.

SUPPLEMENTARY INFORMATION: The Privacy Act, 5 U.S.C. 552a, at subsection (b)(3), requires each agency to publish, for public notice and comment, routine uses describing any disclosures of information about an individual that the agency intends to make from a Privacy Act system of records without the individual's prior written consent, other than those which are authorized directly in the Privacy Act at subsections (b)(1)-(2) and (b)(4)-(12). The Privacy Act

defines “routine use” at subsection (a)(7) to mean a disclosure for a purpose compatible with the purpose for which the record was collected.

In accordance with OMB Memorandum M-17-12, issued January 3, 2017, titled “*Preparing for and Responding to a Breach of Personally Identifiable Information*,” the FDIC is modifying its current general routine use number (4) and adding a new general routine use number (5) to each system notice to authorize the FDIC to disclose information when necessary to obtain assistance with a suspected or confirmed data breach or to assist another agency in its response to a breach. The first routine use presented below is a revised version of current general routine use number (4) prescribed in former OMB Memorandum M-07-16 and first published in the *Federal Register* by the FDIC on October 29, 2007 (72 FR 61131). The second new general routine use presented below is being added to each the FDIC system notice as number (5) and all routine uses have been renumbered to account for this addition.

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC’s efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

The FDIC is also adding a new routine use to the FDIC 30-64-0022, Freedom of Information Act and Privacy Act Request Records, as presented below. This new routine use will permit records to be provided to the National Archives and Records Administration, Office of Government Information Services (OGIS) for purposes set forth under 5 U.S.C. 552(h), including to review agency compliance with FOIA, provide mediation services to resolve FOIA disputes, and identify policies and procedures for improving FOIA compliance.

(9) To the National Archives and Records Administration, Office of Government Information Services (OGIS) to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS’s offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

In addition, this notice makes non-substantive editorial and formatting changes to all system notices for clarity and to conform to the updated system notice template prescribed in

OMB Circular A-108. More detailed information on the revised systems of records may be viewed in the complete text below.

The report of modified systems of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to OMB Circular A-108, "Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act" and the Privacy Act, 5 U.S.C. 552a(r).

The FDIC last published a complete list of its system notices in the *Federal Register* on October 30, 2015 (80 FR 66981). This publication may be viewed on the FDIC's Privacy Program web page at www.fdic.gov/about/privacy.

SYSTEM NAME AND NUMBER: Personnel Benefits and Enrollment Records, FDIC-30-64-0014.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Division of Administration, FDIC, 550 17th Street, NW, Washington, DC 20429. For administrative purposes, duplicate systems may exist within the FDIC at the duty station of each employee. (See www.fdic.gov/about/contact/directory or [Appendix A](#) for the location of FDIC Regional Offices). The FDIC also has an interagency agreement with the U.S. Department of Agriculture, National Finance Center in New Orleans, Louisiana, to provide and maintain payroll, personnel, and related services and systems involving FDIC employees. The FDIC also has agreements with T. Rowe Price, Benefit Allocation Systems, and other benefit plan contractors to provide employee benefits and related administrative services.

SYSTEM MANAGER(S): Deputy Director, Human Resources Branch, FDIC Division of Administration, 550 17th Street, NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: Section 9 of the Federal Deposit Insurance Act (12 U.S.C. §1819) and Executive Order 9397.

PURPOSE(S) OF THE SYSTEM: The records are collected, maintained and used to support the administration and management of FDIC personnel benefits programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: To the extent not covered by any other system, this system covers current and former FDIC employees and their dependents who are enrolled in FDIC-sponsored, health, life, and other insurance or benefit programs.

CATEGORIES OF RECORDS IN THE SYSTEM: This system contains general personnel and enrollment information for FDIC-sponsored flexible spending account (FSA) plans and insurance plans (life, dental, vision, or long-term disability). This may include information such as an individual's name, earnings, number and name of dependents, gender, date of birth, home

address, social security number, employee locator information (including e-mail and office addresses), claims for FSA reimbursements, and related correspondence.

RECORD SOURCE CATEGORIES: The sources of records in this category include the individuals to whom the records pertain and information retrieved from official FDIC records in the systems noted in System Location.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

- (1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;
- (2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;
- (3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;
- (4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;
- (5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
- (6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;
- (7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

- (8) To appropriate Federal agencies and other public authorities for use in records management inspections;
- (9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;
- (10) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;
- (11) To the Department of Agriculture, National Finance Center to provide personnel, payroll, and related services and systems involving FDIC personnel;
- (12) To the Internal Revenue Service and appropriate State and local taxing authorities;
- (13) To appropriate Federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States;
- (14) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establish and modify orders of child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, the Federal Parent Locator System and the Federal Tax Offset System;
- (15) To the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;
- (16) To the Office of Child Support Enforcement for release to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program and verifying a claim with respect to employment in a tax return;
- (17) To Benefit Allocation Systems, T. Rowe Price, and other benefit providers, carriers, vendors, contractors, and agents to process claims and provide related administrative services involving FDIC personnel.

DISCLOSURE TO CONSUMER REPORTING AGENCIES: Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records are indexed and retrieved by the name, social security number, or system-specific assigned number of the employee.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: Records are maintained ten years after employee separation. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES: Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street, NW, Washington, DC 20429, or email efoia@fdic.gov. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES: Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street, NW, Washington, DC 20429, or email efoia@fdic.gov. Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES: Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street, NW, Washington, DC 20429, or email efoia@fdic.gov. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: 80 FR 66981 (October 30, 2015).