



BILLING CODE: 4810-AM-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Privacy Act of 1974; System of Records

[Docket No: CFPB-2020-0003]

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of a Modified Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection, hereinto referred to as the Consumer Financial Protection Bureau (Bureau), gives notice of the modification of a Privacy Act System of Records. The information in the system will enable the Bureau to carry out its responsibilities with respect to non-depository covered persons and service providers, including the coordination and conduct of examinations, supervisory evaluations and analyses, enforcement actions, actions in Federal court, and coordination with other financial regulatory agencies. The Bureau is modifying the system of records in order to update descriptions of the system location; the system manager; the address whereby a member of the public can request access to records, contest records, or request notification whether a system contains a record pertaining to him or her; and the policies and practices for retention and disposal of records.

DATES: Comments must be received no later than **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. The modified system of records will be effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, unless the comments received result in a contrary determination.

ADDRESSES: You may submit comments, identified by the title and the docket number (see above), by any of the following methods:

- *Electronic:* <http://www.regulations.gov>: Follow the instructions for soliciting comments.
- *Email:* privacy@cfpb.gov.
- *Mail/Hand Delivery/Courier:* Tannaz Haddadi, Acting Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street, NW, Washington, DC 20552.

All submissions must include the agency name and docket number for this notice. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street, NW, Washington, DC 20552 on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 435-7058. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Tannaz Haddadi, Acting Chief Privacy Officer, at (202) 435-7058. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov. Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION: The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law No. 111-203, title X, established the Bureau. The Bureau will maintain the records covered by this notice. The modified system of records described in this notice, “CFPB.003 – Non-depository Supervision Database,” will collect information to enable the Bureau to carry out its responsibilities with respect to non-depository covered persons and service providers, including the coordination and conduct of examinations, supervisory evaluations and analyses, enforcement actions, actions in Federal court, and coordination with

other financial regulatory agencies. This modified system of records updates the description of the system location, the address of the system manager, the address whereby members of the public can notify the Bureau to request access to or amend records about themselves, record access, contesting record and notification procedures, and the policies and practices for retention and disposal of records. The updated sections reflect the Bureau's new address: Bureau of Consumer Financial Protection, 1700 G Street, NW, Washington, DC 20552, and the updated records schedule. Records in this system will be destroyed 7 years after cutoff. In addition, the Bureau is making non-substantive revisions to the system of records notice to align with the Office of Management and Budget's recommended model in Circular A-108, appendix II.

The report of a modified system of records has been submitted to the Committee on Oversight and 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" (December 23, 2016),¹ and the Privacy Act, 5 U.S.C. 552a(r).

The system of records entitled "CFPB.003 – Non-depository Supervision Database" is published in its entirety below.

SYSTEM NAME AND NUMBER: CFPB.003 – Non-depository Supervision Database.

SECURITY CLASSIFICATION: This information system does not contain any classified information or data.

SYSTEM LOCATION: Bureau of Consumer Financial Protection, 1700 G Street, NW, Washington, DC 20552.

¹ Although pursuant to section 1017(a)(4)(E) of the Consumer Financial Protection Act, Public Law 111-203, the Bureau is not required to comply with OMB-issued guidance, it voluntarily follows OMB privacy-related guidance as a best practice and to facilitate cooperation and collaboration with other agencies.

SYSTEM MANAGER(S): Assistant Director of Nonbank Supervision, Bureau of Consumer Financial Protection, 1700 G Street, NW, Washington, DC 20552; (202) 435-7923.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: Public Law 111-203, title X, sections 1011, 1012, 1021, 1024, codified at 12 U.S.C. 5491, 5492, 5511, 5514.

PURPOSE(S) OF THE SYSTEM: The information in the system is being collected to enable the Bureau to carry out its responsibilities with respect to non-depository covered persons and service providers, including the coordination and conduct of examinations, supervisory evaluations and analyses, enforcement actions, actions in Federal court, and coordination with other financial regulatory agencies. The information collected in this system will also support the conduct of investigations or be used as evidence by the Bureau or other supervisory or law enforcement agencies. This may result in criminal referrals, referral to the Federal Reserve Office of Inspector General, or the initiation of administrative or Federal court actions. This system will track and store examination and inspection documents created during the performance of the Bureau's statutory duties. This system also will enable the Bureau to monitor and coordinate regular examinations and required reports, supervisory evaluations and analyses, and enforcement actions internally and with other Federal and state regulators. The information will also be used for administrative purposes to ensure quality control, performance, and improving management processes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Individuals covered by this system are: (1) Individuals who themselves are current and former directors, officers, employees, agents, shareholders, and independent contractors of non-depository covered persons subject to the supervision of the Bureau; (2) Current and former consumers who are or have been in the past serviced by non- depository covered persons subject to the supervision of the Bureau;

and (3) Bureau employees assigned to supervise non-depository covered persons. Information collected regarding consumer products and services is subject to the Privacy Act only to the extent that it concerns individuals; information pertaining to corporations and other organizations is not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM: Records in this system may contain information provided by a covered person, by individuals who are or have been serviced by a covered person, or other governmental authorities, to the Bureau in the exercise of the Bureau's responsibilities and used to assess a covered person's compliance with various statutory and regulatory obligations. This information may include, without limitation, reports of examinations and associated documentation regarding compliance with consumer financial law; documents assessing the current and past safety and soundness/risk management of a covered person or service provider; reports of consumer complaints; and correspondence relating to any category of information discussed above and actions taken to remedy deficiencies in these areas. Information contained in the Non-depository Supervision Database is collected from a variety of sources, including, without limitation: (1) The individuals who own, control, or work for covered persons or service providers; (2) existing databases maintained by other Federal and State regulatory associations, law enforcement agencies, and related entities; (3) third-parties with relevant information about covered persons or service providers; and (4) information generated by Bureau employees. Whenever practicable, the Bureau will collect information about an individual directly from that individual.

RECORD SOURCE CATEGORIES: Information in this system is obtained from covered persons subject to the Bureau's authority, and current, former, and prospective consumers who

are or have been customers or prospective customers of covered persons, and others with information relevant to the enforcement of Federal consumer financial laws.

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

These records may be disclosed, consistent with the Bureau's Disclosure of Records and Information Rules, promulgated at 12 CFR part 1070, to:

- (1) Appropriate agencies, entities, and persons when (a) the Bureau suspects or has confirmed that there has been a breach of the system of records; (b) the Bureau has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Bureau (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 Bureau's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;
- (2) Another Federal agency or Federal entity, when the Bureau 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.
- (3) Another Federal or State agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who

- has requested access to or amendment or correction of records;
- (4) The Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;
 - (5) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;
 - (6) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the Bureau or Federal Government and who have a need to access the information in the performance of their duties or activities;
 - (7) Any authorized agency or component of the Department of Treasury, the Department of Justice, the Federal Reserve System, the Federal Deposit Insurance Corporation or other law enforcement authorities including disclosure by such authorities: (a) To the extent relevant and necessary in connection with litigation in proceedings before a court or other adjudicative body, where (i) The United States is a party to or has an interest in the litigation, including where the agency, or an agency component, or an agency official or employee in his or her official capacity, or an individual agency official or employee whom the Department of Justice or the Bureau has agreed to represent, is or may likely become a party, and
(ii) the litigation is likely to affect the agency or any component thereof; or (b) To outside experts or consultants when considered appropriate by Bureau staff to assist in the conduct of agency matters;
 - (8) The U.S. Department of Justice (DOJ) for its use in providing legal advice to the Bureau or in representing the Bureau in a proceeding before a court, adjudicative body, or other

administrative body, where the use of such information by the DOJ is deemed by the Bureau to be relevant and necessary to the advice or proceeding, and in the case of a proceeding, such proceeding names as a party in interest:

- (a) The Bureau;
 - (b) Any employee of the Bureau in his or her official capacity;
 - (c) Any employee of the Bureau in his or her individual capacity where DOJ has agreed to represent the employee; or
 - (d) The United States, where the Bureau determines that litigation is likely to affect the Bureau or any of its components;
- (9) A grand jury pursuant either to a Federal or State grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, where the subpoena or request has been specifically approved by a court. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge;
- (10) A court, magistrate, or administrative tribunal in the course of an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) in the course of discovery or other pre-hearing exchanges of information, litigation, or settlement negotiations, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;
- (11) Appropriate agencies, entities, and persons, including but not limited to potential expert witnesses or witnesses in the course of investigations, to the extent necessary to secure information relevant to the investigation;
- (12) Appropriate Federal, State, local, foreign, tribal, or self-regulatory organizations or

agencies responsible for investigating, prosecuting, enforcing, implementing, issuing, or carrying out a statute, rule, regulation, order, policy, or license if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy, or license; and

- (13) An entity or person that is the subject of supervision or enforcement activities including examinations, investigations, administrative proceedings, and litigation, and the attorney or non-attorney representative for that entity or person.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Paper and electronic records.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records are retrievable by a variety of fields including, but not limited to, the individual's name, complaint/inquiry case number, address, account number, transaction number, phone number, date of birth, or by some combination thereof.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: Per DAA-0587-2013-0008, records in this system will be destroyed 7 years after cutoff.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RECORD ACCESS PROCEDURES: An individual seeking access to any record pertaining to him or her contained in this system of records may inquire in writing in accordance with instructions in 12 CFR 1070.50 et seq. Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street, NW, Washington, DC 20552. Instructions are

also provided on the Bureau website: <https://www.consumerfinance.gov/foia-requests/submit-request/>.

CONTESTING RECORD PROCEDURES: An individual seeking to contest the content of any record pertaining to him or her contained in this system of records may inquire in writing in accordance with instructions appearing in the Bureau's Disclosure of Records and Information Rules, promulgated at 12 CFR 1070.50 et seq. Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street, NW, Washington, DC 20552.

NOTIFICATION PROCEDURES: An individual seeking notification whether any record contained in this system of records pertains to him or her may inquire in writing in accordance with instructions appearing in the Bureau's Disclosure of Records and Information Rules, promulgated at 12 CFR 1070.50 et seq. Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street, NW, Washington, DC 20552.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: Portions of the records in this system are compiled for law enforcement purposes and are exempt from disclosure under Bureau's Privacy Act regulations and 5 U.S.C. 552a(k)(2). Federal criminal law enforcement investigatory reports maintained as part of this system may be the subject of exemptions imposed by the originating agency pursuant to 5 U.S.C. 552a(j)(2).

HISTORY: 76 FR 45761 (August 01, 2011); 83 FR 23435 (May 21, 2018)

Date: November 27, 2019.

Kate Fulton,

Senior Agency Official for Privacy, Bureau of Consumer Financial Protection.

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