



BILLING CODE: 4810-AM-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB-2020-0025]

Privacy Act of 1974; System of Records

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 establishment of a revised Privacy Act System of Records. This revised system will collect information related to alternative dispute resolution processes; and the revised notice will clarify its applicability to time and attendance 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 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], unless the comments received result in a contrary determination.

ADDRESSES: You may submit comments, identified by the title and docket number (*see* above Docket No. CFPB-2020-0025), by any of the following methods:

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

that due to circumstances associated with the COVID-19 pandemic, the Bureau discourages the submission of comments by mail, hand delivery, or courier.

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, once the Bureau's headquarters reopens, 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. At that time, you can make an appointment to inspect comments by telephoning (202) 435-9169. 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, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552, (202) 435-7058.

SUPPLEMENTARY INFORMATION: The Bureau revises its Privacy Act System of Records Notice (SORN) "CFPB.009 – Employee Administrative Records System." The Bureau modifies the purpose(s) for which the system is maintained and the categories of records in the system to state that information in the system will be used to facilitate alternative dispute resolution processes. The SORN is also modified to clarify its applicability to time and attendance records and in adherence to routine uses specified in OMB M-17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information" (Jan. 2017).¹

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.

The report of the revised system 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" (Dec. 2016), and the Privacy Act of 1974, 5 U.S.C. 552a(r).

SYSTEM NAME AND NUMBER: CFPB.009 - Employee Administrative Records System.

SECURITY CLASSIFICATION: Unclassified.

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

SYSTEM MANAGER(S): Consumer Financial Protection Bureau, Chief Operating Officer, 1700 G Street NW, Washington, DC 20552.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 12 U.S.C. 5492-93, 5511; 31 U.S.C. 3721; 42 U.S.C. 2000e-16; 42 U.S.C. 1981 note.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to enable the Bureau to manage and administer human capital functions, including personnel actions, payroll, human resources, time and attendance, leave, insurance, tax, retirement and other employee benefits, employee claims for loss or damage to personal property, alternative dispute resolution processes, and to prepare related reports to other Federal agencies. 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:

Current and former Bureau employees, volunteers, detailees, applicants, and persons who work at the Bureau (collectively employees), and their named dependents and/or beneficiaries, their named emergency contacts, and individuals who have been extended offers of employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system may contain identifiable information about individuals including, without limitation: (1) identification and contact information, including name, address, email address, phone number and other contact information; (2) employee emergency contact information, including name, phone number, relationship to employee or emergency contact; (3) Social Security number (SSN), employee ID number, organization code, pay rate, salary, grade, length of service, and other related pay and leave records including payroll data; (4) biographic and demographic data, including date of birth and marital or domestic partnership status; (5) employment-related information such as performance reports, training, professional licenses, certification, and memberships information, alternative dispute resolution processes, fitness center membership information, union dues, employee claims for loss or damage to personal property, and other information related to employment by the Bureau; (6) benefits data, such as health, life, travel, and disability insurance information; (7) retirement benefits information and flexible spending account information; and (8) time and attendance records.

General personnel and administrative records contained in this system are covered under the government-wide systems of records notice published by the Office of Personnel Management (OPM/GOVT-1). This system complements OPM/GOVT-1 and this notice incorporates by reference but does not repeat all the information contained in OPM/GOVT-1.

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 1070 *et seq.*, 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) The 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 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;
- (8) 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;

- (9) 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;
- (10) Appropriate agencies, entities, and persons to the extent necessary to obtain information relevant to current and former Bureau employees' benefits, compensation, and employment;
- (11) 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;
- (12) National, State or local income security and retirement agencies or entities involved in administration of employee retirement and benefits programs (*e.g.*, State unemployment compensation agencies and State pension plans) and any of such agencies' contractors or plan administrators, when necessary to determine employee eligibility to participate in retirement or employee benefits programs, process employee participation in those programs, process claims with respect to individual employee participation in those programs, audit benefits paid under those programs, or perform any other administrative function in connection with those programs;
- (13) An executor of the estate of a current or former employee, a government entity probating the will of a current or former employee, a designated beneficiary of a current or former

employee, or any person who is responsible for the care of a current or former employee, where the employee has died, has been declared mentally incompetent, or is under other legal disability, to the extent necessary to assist in obtaining any employment benefit or working condition for the current or former employee;

- (14) The Internal Revenue Service (IRS) and other governmental entities that are authorized to tax employees' compensation with wage and tax information in accordance with a withholding agreement with the Bureau pursuant to 5 U.S.C. 5516, 5517, and 5520, for the purpose of furnishing employees with IRS Forms W-2 that report such tax distributions;
- (15) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111, 7114; and
- (16) Carriers, providers and other Federal agencies involved in administration of employee retirement and benefits programs and such agencies' contractors or plan administrators, when necessary to determine employee eligibility to participate in retirement and benefits programs, process employee participation in those programs, process claims with respect to individual employee participation in those programs, audit benefits paid under those programs, or perform any other administrative function in connection with those programs and Federal agencies that perform payroll and personnel processing and employee retirement and benefits plan services under interagency agreements or contracts, including the issuance of paychecks to employees, the distribution of wages, the administration of deductions from paychecks for retirement and benefits programs, and the distribution and receipt of those deductions. These agencies include, without limitation, the Department of Labor, the Department of Veterans Affairs, the Social

Security Administration, the Federal Retirement Thrift Investment Board, the Department of Defense, OPM, the Board of Governors of the Federal Reserve System, the Department of the Treasury, and the National Finance Center at the U.S. Department of Agriculture.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: The records are maintained in paper and electronic media. 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.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records are retrievable by a variety of fields including, without limitation, the individual's name, SSN, address, account number, transaction number, phone number, date of birth, or by some combination thereof.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: The Bureau will manage these Federal records in accordance with the National Archive and Records Administration (NARA) General Records Schedules (GRS): GRS 1.1, GRS 1.2, GRS 2.1, GRS 2.2, GRS 2.3, GRS 2.4, GRS 2.5, GRS 2.7, GRS 5.6, GRS 5.7, and GRS 6.4 depending on the record type and the corresponding disposition of that record type.

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: Individuals seeking access to any record 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: Individuals seeking to contest the content of any record 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/privacy/amending-and-correcting-records-under-privacy-act/>.

NOTIFICATION PROCEDURES: See “Record Access Procedures” above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: 81 FR 27104; 83 FR 23435; 78 FR 67340; 76 FR 71327.

SIGNING AUTHORITY: The Senior Agency Official for Privacy, Ren Essene, having reviewed and approved this document, is delegating the authority to electronically sign this document to Grace Feola, a Bureau Federal Register Liaison, for purposes of publication in the *Federal Register*.

Dated: July 23, 2020.

Laura Galban,

Federal Register Liaison, Bureau of Consumer Financial Protection.

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