

**§ 240.17Ad-7 Record retention.**

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(f) Subject to the conditions set forth in this section, the records required to be maintained pursuant to § 240.17Ad-6 may be retained using electronic or micrographic media and may be preserved in those formats for the time required by § 240.17Ad-7. Records stored electronically or micrographically in accordance with this paragraph may serve as a substitute for the hard copy records required to be maintained pursuant to § 240.17Ad-6.

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By the Commission.

Dated: June 16, 2003.

**Jill M. Peterson,**

*Assistant Secretary.*

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**DEPARTMENT OF THE TREASURY****Office of the Secretary of the Treasury****Fiscal Service****31 CFR Parts 1 and 323****Privacy Act of 1974; Proposed Implementation**

**AGENCY:** Bureau of the Public Debt, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** With the concurrence of the Department of the Treasury (Department), the Bureau of the Public Debt (Public Debt) issues a proposed rulemaking to amend its regulations to exempt a system of records from certain provisions of the Privacy Act. Lastly, we are amending regulations to clarify when personal privacy interests may be protected upon the death of a securities holder.

**DATES:** Comments must be received no later than July 21, 2003.

**ADDRESSES:** Send any comments to the Disclosure Officer, Administrative Resource Center, Bureau of the Public Debt, Department of the Treasury, 200 Third Street, Room 211, Parkersburg, WV 26101-5312. Copies of all written comments will be available for public inspection and copying at the Department of the Treasury Library, Room 1428, Main Treasury Building, Washington, DC 20220. Before visiting the library, you must call 202-622-0990 for an appointment. Also, you can download comments at the following World Wide Web address: "<http://www.publicdebt.treas.gov>".

**FOR FURTHER INFORMATION CONTACT:** For information about Public Debt's anti-money laundering and fraud suppression program, contact the Fraud Inquiry Line at (304) 480-8555. The phone line is administered by the Office of the Chief Counsel, Bureau of the Public Debt. For information about this document, contact the Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480-8692.

**SUPPLEMENTARY INFORMATION:** Under the Privacy Act of 1974, 5 U.S.C. 552a, as amended, a Federal agency is required, among other things, to: (1) Maintain only information about an individual that is relevant and necessary to accomplish an authorized purpose; (2) Notify an individual whether information about him or her is maintained in a system of records; (3) Provide an individual with access to the records containing information about him or her, including an accounting of disclosures made of that information; (4) Permit an individual to request amendment of records about him or her; and (5) Describe in system notices the sources of information maintained about individuals and the procedures under which notice, access and amendment rights may be exercised. Under certain circumstances, however, the head of a Federal agency may issue rules to exempt a system of records.

Public Debt is publishing separately in the **Federal Register** a notice establishing a new system of records, Treasury/BPD.009—U.S. Treasury Securities Fraud Information System. In that regard, Public Debt proposes to exempt the new system from certain Privacy Act requirements. The head of an agency may promulgate rules to exempt a system of records from certain provisions under 5 U.S.C. 552a(k)(2) if the system of records is "investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section."

Accordingly, pursuant to the authority contained in section 31 CFR 1.23(c)(2), Public Debt proposes to exempt the system from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

This system will be exempt from 5 U.S.C. 552a(c)(3) (Accounting of certain disclosures available to the individual), (d)(1)–(4) (Access to records), (e)(1) (Maintenance of information to accomplish purposes authorized by statute or executive order only), (e)(4)(G) (Publication of procedures for notification), (e)(4)(H) (Publication of procedures for access and contest), (e)(4)(I) (Publication of sources of

records), and (f) (Rules for notification, access and contest) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) as material compiled for law enforcement purposes.

The reasons for exemptions under 5 U.S.C. 552a(k)(2) are as follows:

(1) 5 U.S.C. 552a(c)(3) requires an agency to make accountings of disclosures of a record available to the individual named in the record upon his or her request. The accountings must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient. Application of this provision would impair the ability of Public Debt and of law enforcement agencies to make effective use of information maintained by Public Debt. Access to such knowledge would impair the ability of Public Debt and law enforcement to carry out their mission, since individuals could:

- (a) Take steps to avoid detection;
- (b) Inform associates that an investigation is in process;
- (c) Learn the nature of the investigation;
- (d) Learn whether they are only suspects or identified as law violators;
- (e) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records; or
- (f) Destroy evidence needed to prove the violation.

(2)(a) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (3) and (5) grant individuals access to records pertaining to them. The application of these provisions to the system of records would compromise Public Debt's ability to utilize and provide useful tactical and strategic information to law enforcement agencies.

(b) Permitting access to records contained in the system of records would provide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension by:

- (i) Discovering the facts that would form the basis for their detection or apprehension;
- (ii) Enabling them to destroy or alter evidence of illegal conduct that would form the basis for their detection or apprehension;
- (iii) Using knowledge that investigators had reason to believe that a violation of law was about to be committed, to delay the commission of the violation or commit it at a location that might not be under surveillance;

(c) Permitting access to either on-going or closed investigative files would also reveal investigative techniques and

procedures, the knowledge of which could enable individuals planning illegal acts to structure their operations so as to avoid detection or apprehension;

(d) Permitting access to investigative files and records could, moreover, disclose the identity of confidential sources and informers and the nature of the information supplied and thereby endanger the physical safety of those sources by exposing them to possible reprisals for having provided the information. Confidential sources and informers might refuse to provide investigators with valuable information unless they believed that their identities would not be revealed through disclosure of their names or the nature of the information they supplied. Loss of access to such sources would seriously impair law enforcement and Public Debt's ability to carry out their mandate.

(e) Furthermore, providing access to records contained in the system of records could reveal the identities of undercover law enforcement officers or other persons who compiled information regarding the individual's illegal activities and thereby endanger the physical safety of those officers, persons, or their families by exposing them to possible reprisals.

(f) By compromising the law enforcement value of the system of records for the reasons outlined in paragraphs (b) through (e) of this section, permitting access in keeping with these provisions would discourage other law enforcement and regulatory agencies, foreign and domestic, from freely sharing information with Public Debt and thus would restrict Public Debt's access to information necessary to accomplish its mission most effectively.

(g) Finally, the dissemination of certain information that Public Debt may maintain in the system of records is restricted by law. Disclosure of the record to the subject pursuant to subsections (c)(3) or (d)(1)–(4) of the Privacy Act would violate the non-notification provision of the Bank Secrecy Act, 31 U.S.C. 5318(g)(2), under which there is a prohibition from notifying a transaction participant that a suspicious transaction report has been made. In addition, the access provisions of subsections (c)(3) and (d) of the Privacy Act would alert individuals that they have been identified as suspects or possible subjects of investigation and thus seriously hinder the law enforcement purposes underlying the suspicious transaction reports.

(3) 5 U.S.C. 552a(d)(2), (3), and (4), (e)(4)(H), and (f)(4) permit an individual

to request amendment of a record pertaining to him or her and require the agency either to amend the record, or to note the disputed portion of the record and to provide a copy of the individual's statement of disagreement with the agency's refusal to amend a record to persons or other agencies to whom the record is thereafter disclosed. Since these provisions depend on the individual's having access to his or her records, and since these rules exempt the system of records from the provisions of 5 U.S.C. 552a relating to access to records, for the reasons set out in subparagraphs (b) through (g) of paragraph (2), above, these provisions should not apply to the system of records.

(4)(a) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3), includes "collect" and "disseminate." The application of this provision to the system of records could impair Public Debt's ability to collect, utilize, and disseminate valuable information to law enforcement.

(b) At the time that Public Debt collects information, it often lacks sufficient time to determine whether the information is relevant and necessary to accomplish a Public Debt purpose.

(c) In many cases, especially in the early stages of investigation, it may be impossible immediately to determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary often may, upon further evaluation or upon collation with information developed subsequently, prove particularly relevant to a law enforcement program.

(d) Not all violations of law discovered by Public Debt employees fall within the jurisdiction of Public Debt. Public Debt will have to disclose such violations to other law enforcement agencies, including State, local, and foreign agencies that have jurisdiction over the offenses to which the information relates.

(5) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the system of records could compromise Public Debt's ability to provide useful information to law enforcement agencies, since revealing sources for the information could:

(a) Disclose investigative techniques and procedures;

(b) Result in threats or reprisals against informers by the subjects of an investigation; and

(c) Cause informers to refuse to give full information to investigators for fear of having their identities as sources disclosed.

In an unrelated change, we are clarifying the privacy interests afforded to investors upon the death of a securities holder. Public Debt has protected the privacy interests of securities holders by regulation long before the passage of the Privacy Act of 1974. We are amending part 323 to comport with exemption 6 of the Freedom of Information Act which permits us to withhold all information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." Although the right to privacy of a deceased securities holder extinguishes upon death, the exemption protects the deceased person's family-related privacy interests in certain cases.

The Regulatory Flexibility Act (RFA) requires Federal agencies either to certify that a proposed rule would not, if adopted in final form, have a significant impact on a substantial number of small entities or to prepare an initial regulatory flexibility analysis of the proposal and publish the analysis for comment (5 U.S.C. 601 *et seq.*). This regulation will exempt a new system of records from the Privacy Act. Because this regulation affects only internal agency administration, this exemption is not expected to generate any costs. Therefore, Public Debt and the Department certify that the proposed rule, if adopted in final form, will not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), Public Debt and the Department have determined that this proposed rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

The regulation will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this regulation does not have federalism implications under Executive Order 13132.

In accordance with Executive Order 12866, it has been determined that this final rule is not a "significant regulatory

action” and, therefore, does not require a Regulatory Impact Analysis.

### List of Subjects

#### 31 CFR Part 1

Privacy.

#### 31 CFR Part 323

Freedom of Information, Privacy.

Accordingly, for the reasons stated in the preamble, 31 CFR part 1, is amended as follows:

1. The authority citation for part 1 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a.

### PART 1—[AMENDED]

#### Subpart C—Privacy Act

2. In § 1.36 of Subpart C, paragraph (g)(1)(x) is amended by adding the following new table below the heading BUREAU OF THE PUBLIC DEBT:

Number	System name
BPD.009 .....	U.S. Treasury Securities Fraud Information System.

### PART 323—[AMENDED]

3. The authority citation for part 323 continues to read as follows:

**Authority:** 80 Stat. 379; sec. 3., 60 Stat. 238, as amended; 5 U.S.C. 301, 552.

4. Revise § 323.2(b) to read as follows:

#### § 323.2 Rules Governing Availability of Information.

\* \* \* \* \*

(b) *Limitations on the availability of records relating to securities.* Records relating to the purchase, ownership of, and transactions in Treasury securities or other securities handled by the Bureau of the Public Debt for government agencies or wholly or partially Government-owned corporations will ordinarily be disclosed only to the owners of such securities, their executors, administrators or other legal representatives or to their survivors or to investigative and certain other agencies of the Federal and State governments, to trustees in bankruptcy, receivers of insolvents' estates or where proper order has been entered requesting disclosure of information to Federal and State courts. These records are held confidential because they relate to private financial affairs of the owners under this Part. In addition, the information falls within the category of “personnel and medical files and

similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy” under the Freedom of Information Act, 5 U.S.C. 552(b)(6). Exemption (b)(6) protects the privacy of living persons and close survivors of a deceased person identified in a record. Privacy interests, in the sense of the right to control, use, or disclose information about oneself, cease at death. However, the exemption protects the deceased person's family-related privacy interests that survive death where disclosure would cause embarrassment, pain, grief, or disrupt the peace of mind, of the surviving family. The Bureau of the Public Debt will determine whether disclosure of the records is in the public interest by balancing the surviving family members' privacy interest against the public's right to know the information.

Dated: June 3, 2003.

**W. Earl Wright, Jr.,**

*Chief Management and Administrative Programs Officer.*

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### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 181

[USCG-2003-14272]

RIN 1625-AA53

#### Country of Origin Codes and Revision of Regulations on Hull Identification Numbers

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to allow U.S. manufacturers of recreational boats to display a 2-character, country of origin code before the 12-character Hull Identification Number (HIN) without separating the 2-character code by means of borders or on a separate label as is currently required by the HIN regulations. The current prohibition adversely affects U.S. manufacturers who seek to export some of their recreational boats. The removal of the current restriction would allow U.S. manufacturers to comply with the International Organization for Standardization (ISO) HIN standard, without changing the information collected by States on undocumented vessels they register.

**DATES:** Comments and related material must reach the Docket Management

Facility on or before September 18, 2003.

**ADDRESSES:** You may submit comments identified by the Coast Guard docket number USCG-2003-14272 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Web site:* <http://dms.dot.gov>.

(2) *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590-0001.

(3) *Fax:* 202-493-2251.

(4) *Delivery:* Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(5) *Federal Rulemaking Portal:* <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Mr. Alston Colihan, Office of Boating Safety, Coast Guard, telephone 202-267-0984. If you have questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation and Access to Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://dms.dot.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see the “Privacy Act” paragraph below.

*Submitting comments.* If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG-2003-14272), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a