

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 261a

[Docket No. R-1313]

#### Privacy Act of 1974; Privacy Act Regulation

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) proposes to amend its regulation implementing the Privacy Act of 1974 (Privacy Act). The primary changes concern: the waiver of copying fees charged to current and former Board employees, and applicants for Board employment, for access to their records under the Privacy Act; amending special procedures for the release of medical records to permit the Board's Chief Privacy Officer to also consult with the Board's Employee Assistance Program counselor to determine whether the disclosure of medical records directly to the requester could have an adverse effect on the requester; changes to procedures for requests by current Board employees for access to their personnel records; changes to the time limits for responding to requests for access to information and amendment of records; and updates to the exemptions claimed for certain systems of records. In addition, the Board is proposing to make minor editorial and technical changes to ensure that the Board's regulation is consistent with the Board's published systems of records and is clearer.

**DATES:** Comment must be received on or before June 6, 2008.

**ADDRESSES:** You may submit comments, identified by Docket No. R-1313, by any of the following methods:

- *Agency Web site:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include docket number in the subject line of the message.

- *FAX:* 202/452-3819 or 202/452-3102.

- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

**FOR FURTHER INFORMATION CONTACT:** Brad Fleetwood, Senior Counsel, (202) 452-3721, Legal Division. For user of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

**SUPPLEMENTARY INFORMATION:** The Board's Privacy Act Regulation was last revised in 2002 (67 FR 44526, July 3, 2002). Since that time, in its ongoing review of this regulation and the Board's Privacy Act systems of records, the Board has determined that certain additional changes should be made to the regulation to improve procedures and to make the regulation clearer and more understandable. Below is an explanation of the proposed substantive changes.

The Privacy Act (5 U.S.C. 552a(f)(5)) permits agencies to assess fees for copying requested records. Section 261a.4(a) of the Board's current regulation states that the duplication fee for Privacy Act requests will be the same as that charged for duplication of records in response to a Freedom of Information Act request (currently \$.10/page). Section 261a.4(c) states that duplication fees totaling \$50 or less will be waived in the connection with a request by an employee, former employee, or applicant for employment for records for use in prosecuting a grievance or complaint of discrimination against the Board; but

the Secretary of the Board also may waive fees exceeding that amount. A review of current Board practice revealed that all copying fees are waived in connection with any request by current or former Board employees, and applicants for Board employment. Accordingly, the Board proposes to amend the regulation to conform to this practice.

Currently, section 261a.7 of the Board's Regulation permits the Chief Privacy Officer, in consultation with the Board's physician, to determine that disclosure of medical records directly to the requester could have an adverse effect on the requester. In that situation, the Board would transmit the records to a licensed physician named by the requester, and the physician would disclose the records to the requester in a manner deemed appropriate by the physician. The Board proposes to amend the regulation to permit the Chief Privacy Officer to also consult with the Board's Employee Assistance Program (EAP) counselor to determine whether the disclosure of medical records directly to the requester could have an adverse effect on the requester.

Currently, section 261a.5 provides that any person seeking to learn of the existence of, or to gain access to, an individual's record in a system of records shall submit a request in writing to the Secretary of the Board, except that a request by a current Board employee for that employee's personnel records may be made in person during regular business hours at the Human Resources Function of the Board's Management Division. The Board proposes to modify this provision and require all requests for access, including those made by current Board employees for access to their personnel records, to be submitted in writing to the Secretary of the Board. The proposed change will facilitate appropriate tracking and processing of all Privacy Act requests.

Currently, § 261.a(6)(b) states that individuals' requests for access to information shall be acknowledged, or where practicable, substantially responded to within 10 business days from receipt of the request. After a review of the Board's actual practice, the Board proposes to modify this time limit to provide the Board 20 business days to respond, where practicable.

Currently, § 261.a(9)(a) states that to the extent possible, a determination

upon a request to amend a record shall be made within 10 business days after receipt of the request. The Privacy Act requires agencies to respond to requests to amend records promptly. Thus, the Board proposes to change its regulation to require the Board to respond promptly to such requests.

The current regulation sets out, in § 261.12, the statutory exceptions to restrictions on disclosure. Because this provision adds no substantive or interpretative matter to the statutory provision, the proposal simply references the statutory exception provision in the text of proposed § 261a.11 relating to restrictions on disclosure.

The Board recently updated its Privacy Act systems of records, and the Board is now updating the exemptions listed under § 261a.13 (to be renumbered § 261a.12) to conform to the exemptions approved for each of the Board's Privacy Act systems of records. In addition, under § 261a.12(d), the Board has clarified that all Office of Inspector the General Investigatory Records held in system BGFRS/OIG-1 are exempt from parts of the Privacy Act under 5 U.S.C. 552a(j)(2).

The remaining proposed changes are technical or editorial in nature and should not have a substantive effect on any persons.

#### INITIAL REGULATORY FLEXIBILITY ANALYSIS

The Privacy Act Regulation sets forth the procedures by which individuals may request access and amendment to records maintained in systems of records at the Board. The Board certifies that this rule will not have a significant economic impact on a substantial number of small entities, because it does not apply to business entities.

#### List of Subjects in 12 CFR Part 261a

Privacy.

For the reasons set forth in the preamble, the Board proposes to revise 12 CFR part 261a to read as follows:

#### PART 261a—RULES REGARDING ACCESS TO PERSONAL INFORMATION UNDER THE PRIVACY ACT 1974

##### Subpart A—General Provisions

Sec.

- 261a.1 Authority, purpose and scope.
- 261a.2 Definitions.
- 261a.3 Custodian of records; delegations of authority.
- 261a.4 Fees.

##### Subpart B—Procedures for Requests by Individual to Whom Record Pertains

- 261a.5 Request for access to record.

- 261a.6 Board procedures for responding to request for access.
- 261a.7 Special procedures for medical records.
- 261a.8 Request for amendment of record.
- 261a.9 Board review of request for amendment of record.
- 261a.10 Appeal of adverse determination of request for access or amendment.

##### Subpart C—Disclosure of Records

- 261a.11 Restrictions on disclosure.
- 261a.12 Exempt Records.

Authority: 5 U.S.C. 552a.

##### Subpart A—General Provisions

###### § 261a.1 Authority, purpose and scope.

(a) *Authority*. This part is issued by the Board of Governors of the Federal Reserve System (the Board) pursuant to the Privacy Act of 1974 (5 U.S.C. 552a).

(b) *Purpose and scope*. This part implements the provisions of the Privacy Act of 1974 with regard to the maintenance, protection, disclosure, and amendment of records contained within systems of records maintained by the Board. It sets forth the procedures for requests for access to, or amendment of, records concerning individuals that are contained in systems of records maintained by the Board.

###### § 261a.2 Definitions.

*For the purposes of this part, the following definitions apply:*

(a) *Business day* means any day except Saturday, Sunday, or a legal Federal holiday.

(b) *Guardian* means the parent of a minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction.

(c) *Individual* means a natural person who is either a citizen of the United States or an alien lawfully admitted for permanent residence.

(d) *Maintain* includes maintain, collect, use, or disseminate.

(e) *Record* means any item, collection, or grouping of information about an individual maintained by the Board that contains the individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voice print, or photograph.

(f) *Routine use* means, with respect to disclosure of a record, the use of such record for a purpose that is compatible with the purpose for which it was collected or created.

(g) *System of records* means a group of any records under the control of the Board from which information is retrieved by the name of the individual or by some identifying number, symbol,

or other identifying particular assigned to the individual.

(h) *You* means an individual making a request under the Privacy Act.

(i) *We* means the Board.

###### § 261a.3 Custodian of records; delegations of authority.

(a) *Custodian of records*. The Secretary of the Board is the official custodian of all Board records.

(b) *Delegated authority of Secretary*. The Secretary of the Board is authorized to—

(1) Respond to requests for access to, accounting of, or amendment of records contained in a system of records, except for such requests regarding systems of records maintained by the Board's Office of the Inspector General (OIG);

(2) Approve the publication of new systems of records and amend existing systems of records, except systems of records exempted pursuant to § 261a.13(b), (c) and (d); and

(3) File any necessary reports related to the Privacy Act.

(c) *Delegated authority of designee*. Any action or determination required or permitted by this part to be done by the Secretary of the Board may be done by a Deputy or Associate Secretary or other responsible employee of the Board who has been duly designated for this purpose by the Secretary.

(d) *Delegated authority of Inspector General*. The Inspector General is authorized to respond to requests for access or amendment for systems of records maintained by the OIG.

###### § 261a.4 Fees.

(a) *Copies of records*. We will provide you with copies of records you request under § 261a.5 of this part at the same cost we charge for duplication of records and/or production of computer output under the Board's Rules Regarding Availability of Information, 12 CFR part 261.

(b) *No fee*. We will not charge you a fee if—

(1) Your total charges are less than \$5, or

(2) You are a Board employee or former employee, or an applicant for employment with the Board, and you request records pertaining to you.

##### Subpart B—Procedures for Requests by Individuals to Whom Record Pertains

###### § 261a.5 Request for access to record.

(a) *Procedures for making request*. (1) Except as provided in paragraph (a)(2) of this section, if you (or your guardian) want to learn of the existence of, or to gain access to, your record in a system of records, you may submit a request in

writing to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

(2) If you want to request information contained in a system of records maintained by the Board's OIG, you may submit the request in writing to the Inspector General, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

(b) *Contents of request.* Your request must include—

(1) A statement that the request is made pursuant to the Privacy Act of 1974;

(2) The name of the system of records you believe contains the record you request, or a concise description of that system of records;

(3) Information necessary to verify your identity pursuant to paragraph (c) of this section; and

(4) Any other information that may assist us in identifying the record you seek (e.g., maiden name, dates of employment, etc.).

(c) *Verification of identity.* We will require proof of your identity, and we reserve the right to determine whether the proof you submit is adequate. In general, we will consider the following to be adequate proof of identity:

(1) If you are a current Board employee, your Board identification card; or

(2) If you are not a current Board employee, either—

(i) Two forms of identification, including one photo identification, or

(ii) A notarized statement attesting to your identity.

(d) *Verification of identity not required.* We will not require verification of identity when the records you seek are available to any person under the Freedom of Information Act (5 U.S.C. 552).

(e) *Request for accounting of previous disclosures.* You may request an accounting of previous disclosures of records pertaining to you in a system of records as provided in 5 U.S.C. 552a(c).

#### **§ 261a.6 Board procedures for responding to request for access.**

(a) *Compliance with Freedom of Information Act.* We will handle every request made pursuant to § 261a.5 of this part as a request for information pursuant to the Freedom of Information Act, except that the time limits set forth in paragraph (b) of this section and the fees specified in § 261a.4 of this part will apply to such requests.

(b) *Time for response.* We will acknowledge every request made

pursuant to § 261a.5 of this part within 20 business days from receipt of the request and will, where practicable, respond to each request within that 20-day period. When a full response is not practicable within the 20-day period, we will respond as promptly as possible.

(c) *Disclosure.* (1) When we disclose information in response to your request, except for information maintained by the Board's OIG, you may inspect or copy it during regular business hours at the Board's Freedom of Information Office, or you may request that we mail it to you.

(2) When the information to be disclosed is maintained by the Board's OIG, the OIG will make the information available for inspection and copying or will mail it to you on request.

(3) You may bring with you anyone you choose to see the requested material.

(d) *Denial of request.* If we deny a request made pursuant to § 261a.5 of this part, we will tell you the reason(s) for denial and the procedures for appealing the denial.

#### **§ 261a.7 Special procedures for medical records.**

If you request medical or psychological records pursuant to § 261a.5, we will disclose them directly to you unless the Chief Privacy Officer, in consultation with the Board's physician or Employee Assistance Program counselor, determines that such disclosure could have an adverse effect on you. If the Chief Privacy Officer makes that determination, we will provide the information to a licensed physician or other appropriate representative you name, who may disclose those records to you in a manner he or she deems appropriate.

#### **§ 261a.8 Request for amendment of record.**

(a) *Procedures for making request.*

(1) If you wish to amend a record that pertains to you in a system of records, you may submit a request in writing to the Secretary of the Board (or to the Inspector General for records in a system of records maintained by the OIG) in an envelope clearly marked "Privacy Act Amendment Request."

(2) Your request for amendment of a record must—

(i) Identify the system of records containing the record for which amendment is requested;

(ii) Specify the portion of that record requested to be amended; and

(iii) Describe the nature of and reasons for each requested amendment.

(3) We will require you to verify your identity under the procedures set forth

in § 261a.5(c) of this part, unless you have already done so in a related request for access or amendment.

(b) *Burden of proof.* Your request for amendment of a record must tell us why you believe the record is not accurate, relevant, timely, or complete. You have the burden of proof for demonstrating the appropriateness of the requested amendment, and you must provide relevant and convincing evidence in support of your request.

#### **§ 261a.9 Board review of request for amendment of record.**

(a) *Time limits.* We will acknowledge your request for amendment of your record within 10 business days after we receive your request. In the acknowledgment, we may request additional information necessary for a determination on the request for amendment. We will make a determination on a request to amend a record promptly.

(b) *Contents of response to request for amendment.* When we respond to a request for amendment, we will tell you whether your request is granted or denied. If we deny the request, in whole or in part, we will tell you—

(1) Why we denied the request (or portion of the request);

(2) That you have a right to appeal; and

(3) How to file an appeal.

#### **§ 261a.10 Appeal of adverse determination of request for access or amendment.**

(a) *Appeal.* You may appeal a denial of a request made pursuant to § 261a.5 or § 261a.8 of this part within 10 business days after we notify you that we denied your request. Your appeal must—

(1) Be made in writing to the Secretary of the Board, with the words "PRIVACY ACT APPEAL" written prominently on the first page;

(2) Specify the background of the request; and

(3) Provide reasons why you believe the initial denial is in error.

(b) *Determination.* We will make a determination on your appeal within 30 business days from the day we receive it, unless we extend the time for good cause.

(1) If we grant your appeal regarding a request for amendment, we will take the necessary steps to amend your record, and, when appropriate and possible, notify prior recipients of the record of our action.

(2) If we deny your appeal, we will inform you of such determination, tell you our reasons for the denial, and tell you about your right to file a statement of disagreement and your right to have a court review our decision.

(c) *Statement of disagreement.* (1) If we deny your appeal regarding a request for amendment, you may file a concise statement of disagreement with the denial. We will maintain your statement with the record you sought to amend, and any disclosure of the record will include a copy of your statement of disagreement.

(2) When practicable and appropriate, we will provide a copy of the statement of disagreement to any prior recipients of the record.

### Subpart C—Disclosure of Records

#### § 261a.11 Restrictions on disclosure.

We will not disclose any record about you contained in a system of records to any person or agency without your prior written consent unless the disclosure is authorized by 5 U.S.C. 552a(b).

#### § 261a.12 Exempt Records.

(a) *Information compiled for civil action.* This regulation does not permit you to have access to any information compiled in reasonable anticipation of a civil action or proceeding.

(b) *Law enforcement information.* Pursuant to 5 U.S.C. 552a(k)(2), we have determined that it is necessary to exempt the systems of records listed below from the requirements of the Privacy Act concerning access to records, accountings of disclosures of records, maintenance of only relevant and necessary information in files, and certain publication provisions, respectively, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f), and §§ 261a.5, 261a.7, and 261a.8 of this part. The exemption applies only to the extent that a system of records contains investigatory materials compiled for law enforcement purposes.

- (1) BGFRS-1 Recruiting and Placement Records.
- (2) BGFRS 2 Personnel Security Systems.
- (3) BGFRS 4 General Personnel Records.
- (4) BGFRS 5 EEO Discrimination Complaint File.
- (5) BGFRS 18 Consumer Complaint Information.
- (6) BGFRS 21 Supervisory Enforcement Actions and Special Examinations Tracking System.
- (7) BGFRS 31 Protective Information System.
- (8) BGFRS 32 Visitor Registration System.
- (9) BGFRS 36 Federal Reserve Application Name Check System.
- (10) BGFRS/OIG 1 OIG Investigative Records.

(c) *Confidential references.* Pursuant to 5 U.S.C. 552a(k)(5), we have

determined that it is necessary to exempt the systems of records listed below from the requirements of the Privacy Act concerning access to records, accountings of disclosures of records, maintenance of only relevant and necessary information in files, and certain publication provisions, respectively, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f), and §§ 261a.5, 261a.7, and 261a.8 of this part. The exemption applies only to the extent that a system of records contains investigatory material compiled to determine an individual's suitability, eligibility, and qualifications for Board employment or access to classified information, and the disclosure of such material would reveal the identity of a source who furnished information to the Board under a promise of confidentiality.

- (1) BGFRS-1 Recruiting and Placement Records.
  - (2) BGFRS-2 Personnel Security Systems.
  - (3) BGFRS-4 General Personnel Records.
  - (4) BGFRS-10 General Files on Board Members.
  - (5) BGFRS-11 Official General Files.
  - (6) BGFRS-13 Federal Reserve System Bank Supervision Staff Qualifications.
  - (7) BGFRS-14 General File on Federal Reserve Bank and Branch Directors.
  - (8) BGFRS-25 Multi-Rater Feedback Records.
  - (9) BGFRS/OIG-1 OIG Investigative Records.
  - (10) BGFRS/OIG-2 OIG Personnel Records.
- (d) *Criminal law enforcement information.* Pursuant to 5 sa U.S.C. 552a(j)(2), we have determined that the OIG Investigative Records (BGFRS/OIG-1) are exempt from the Privacy Act, except the provisions regarding disclosure, the requirement to keep an accounting, certain publication requirements, certain requirements regarding the proper maintenance of systems of records, and the criminal penalties for violation of the Privacy Act, respectively, 5 U.S.C. 552a(b), (c)(1), and (2), (e)(4)(A) through (F), (e)(6), (e)(7), (e)(9), (e)(10), (e)(11) and (i).

By order of the Board of Governors of the Federal Reserve System, April 30, 2008.

**Jennifer J. Johnson,**  
*Secretary of the Board.*

[FR Doc. E8-9927 Filed 5-6-08; 8:45 am]

**BILLING CODE 6210-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2008-0174; Directorate Identifier 2008-NE-03-AD]

RIN 2120-AA64

#### **Airworthiness Directives; CFM International, S.A. CFM56-5B1/P; -5B2/P; -5B3/P; -5B3/P1; -5B4/P; -5B4/P1; -5B5/P; -5B6/P; -5B7/P; -5B8/P; and -5B9/P Turbofan Engines**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for CFM International, S.A. CFM56-5B1/P; -5B2/P; -5B3/P; -5B3/P1; -5B4/P; -5B4/P1; -5B5/P; -5B6/P; -5B7/P; -5B8/P; and -5B9/P turbofan engines. This proposed AD would require initial and repetitive eddy current inspections (ECIs) of certain part number (P/N) low-pressure (LP) turbine rear frames. This proposed AD results from a refined lifing analysis by the engine manufacturer that shows the need to identify initial and repetitive inspection thresholds for inspecting certain LP turbine rear frames. We are proposing this AD to detect low-cycle-fatigue cracks in the LP turbine rear frame, which could result in engine separation from the airplane, possibly leading to loss of control of the airplane.

**DATES:** We must receive any comments on this proposed AD by July 7, 2008.

**ADDRESSES:** Use one of the following addresses to comment on this proposed AD.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

You can get the service information identified in this proposed AD from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552-2800; fax (513) 552-2816.

**FOR FURTHER INFORMATION CONTACT:** Stephen Sheely, Aerospace Engineer,