

Office of the Secretary of the Treasury

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1.27 are indicated in the notice for the pertinent system.

APPENDIX H TO SUBPART C OF PART 1— FINANCIAL CRIMES ENFORCEMENT NETWORK

1. *In general.* This appendix applies to the Financial Crimes Enforcement Network (FinCEN). It sets forth specific notification and access procedures with respect to particular systems of records, and identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom “Statements of Disagreement” may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e)(4) and (11) and published biennially by the Office of the Federal Register in “Privacy Act Issuances.”

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under §1.26, whether to grant requests for notification and access to records and accountings of disclosures for FinCEN will be made by the Freedom of Information/Privacy Act Officer, FinCEN. Requests may be mailed to: Privacy Act Request, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

3. *Requests for amendments of records.* Initial determinations under §1.27(a) through (d) whether to grant requests to amend records maintained by FinCEN will be made by the Freedom of Information/Privacy Act Officer, FinCEN. Requests may be mailed to: Privacy Act Request, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

4. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, or seeking an accounting of disclosures, must satisfy one of the following identification requirements before action will be taken by FinCEN on any such request:

(i) An individual may establish identity through the mail by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(ii) Notwithstanding paragraph 4(i) of this section, an individual may establish identity by providing a notarized statement, swearing

or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses.

(iii) Notwithstanding paragraphs 4(i) and (ii) of this appendix, the Freedom of Information Act/Privacy Act Officer or other designated official may require additional proof of an individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

5. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under §1.27(e) including extensions of time on appeal with respect to the records of FinCEN will be made by the Director of FinCEN or the delegate of the Director. Appeals should be addressed to: Privacy Act Amendment Appeal, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

6. *Statements of Disagreement.* “Statements of Disagreement” as described in §1.27(e)(4) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

7. *Service of Process.* Service of process will be received by the Chief Counsel of FinCEN and shall be delivered to the following location: Office of Chief Counsel, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, VA 22183.

8. *Biennial notice of systems of records.* The biennial notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled “Privacy Act Issuances.” Any specific requirements for access, including identification requirements, in addition to the requirements set forth in §§1.26 and 1.27 and section 4 of this appendix are indicated in the notice for the pertinent system.

PART 2—NATIONAL SECURITY INFORMATION

Sec.

2.1 Processing of mandatory declassification review requests.

2.2 Access to classified information by historical researchers, former Treasury Presidential and Vice Presidential appointees, and former Presidents and Vice Presidents.

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AUTHORITY: 31 U.S.C. 321, E.O. 12958, 60 FR 19825, E.O. 13292, 68 FR 15315.

SOURCE: 72 FR 63104, Nov. 8, 2007, unless otherwise noted.

§ 2.1 Processing of mandatory declassification review requests.

(a) Except as provided by section 3.4(b) of Executive Order 13292, Further Amendment to Executive Order 12958, as amended, *Classified National Security Information*, all information classified by the Department of the Treasury under these Orders or any predecessor Executive Order shall be subject to mandatory declassification review by the Department, if:

(1) The request for a mandatory declassification review describes the document or material containing the information with sufficient specificity to enable Treasury personnel to locate it with a reasonable amount of effort;

(2) The information is not exempt from search and review under sections 105C, 105D, or 701 of the National Security Act of 1947 (50 U.S.C. 431, 432 and 432a); and

(3) The information has not been reviewed for declassification within the past 2 years or the information is not the subject of pending litigation.

(b) Requests for classified records originated by the Department of the Treasury shall be directed to the Office of Security Programs, Attention: Assistant Director (Information Security), 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Upon receipt of each request for mandatory declassification review, pursuant to section 3.5 of Executive Order 13292, the following procedures will apply:

(1) The Office of Security Programs will acknowledge receipt of the request.

(2)(i) A mandatory declassification review request need not identify the requested information by date or title of the responsive records, but must be of sufficient specificity to allow Treasury personnel to locate records containing the information sought with a reasonable amount of effort. Whenever a request does not reasonably describe the information sought, the requester will be notified by the Office of Security Programs that unless additional information is provided or the scope of the

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request is narrowed, no further action will be undertaken with respect to the request.

(ii) If Treasury has reviewed the information within the past 2 years and determined that all or part thereof remains classified, or the information is the subject of pending litigation, the requester shall be so informed and advised of the requester's appeal rights.

(3) The Office of Security Programs will determine the appropriate Treasury offices or bureaus to conduct the mandatory declassification review. The Office of Security Programs will also advise Treasury and/or bureau reviewing officials concerning the mandatory declassification review process. Classified information relating to intelligence activities (including special activities), intelligence sources or methods, or cryptology will also be coordinated with the Office of the Assistant Secretary (Intelligence and Analysis). As appropriate, the Office of Security Programs will refer requests to other Federal departments and agencies having a direct interest in the requested documents.

(4)(i) Treasury personnel undertaking a mandatory declassification review shall make reasonable efforts to determine if particular information may be declassified. Reviewing officials may rely on applicable exemption criteria under the Freedom of Information Act, the Privacy Act, and any other applicable law that authorizes the withholding of information. Reviewing officials shall also identify the amount of search and review time required to process each request. Barring extenuating circumstances, mandatory declassification reviews for reasonably small volumes of records should be completed in a timely fashion. A final determination regarding large volumes of records should ordinarily be made within one year of Treasury's receipt of any mandatory declassification review request.

(ii) If the Director, Office of Security Programs determines that a Treasury office or bureau responsible for conducting a mandatory declassification review is not making reasonable efforts to review classified information subject to a mandatory declassification request, the Director may authorize

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Treasury-and/or bureau-originated information to be declassified in consultation with the Department's Senior Agency Official.

(iii) If information cannot be declassified in its entirety, reasonable efforts, consistent with applicable law, will be made to release those declassified portions of the requested information that constitute a coherent segment. Upon the denial or partial denial of a declassification request, the requester will be so informed by the Office of Security Programs and advised of the requester's appeal rights.

(5)(i) If Treasury receives a mandatory declassification review request for information in its possession that were originated by another Federal department or agency, the Office of Security Programs will forward the request to that department or agency for a declassification determination, together with a copy of the requested records, a recommendation concerning a declassification determination, and a request to be advised of that department's or agency's declassification determination. The Office of Security Programs may, after consultation with the originating department or agency, inform any requester of the referral unless such association is itself classified under Executive Order 13292 or prior orders.

(ii) Mandatory declassification review requests concerning classified information originated by a Treasury office or bureau that has been transferred to another Federal department or agency will be forwarded to the appropriate successor department or agency for a declassification determination.

(6) If another Federal department or agency forwards a mandatory declassification review request to Treasury for information in its custody that was classified by Treasury, the Office of Security Programs will:

(i) Advise the referring department or agency as to whether it may notify the requester of the referral; and

(ii) Respond to the Federal department, agency, or requester, as applicable, in accordance with the requirements of this section.

(7)(i) Upon the denial, in whole or in part, of a request for the mandatory

declassification review of information, the Office of Security Programs will so notify the requester in writing and will inform the requester of the right to appeal the classification determination within 60 calendar days of the receipt of the classification determination. The notice will also advise the requester of the name and address of the Treasury official who will be responsible for deciding an appeal (the Deciding Official). The Office of Security Programs will coordinate appeals with the appropriate Treasury offices and bureaus.

(ii) The Deciding Official should make a determination on an appeal within 30 working days following the receipt of the appeal, or within 60 working days following receipt if the Deciding Official determines that additional time is required to make a determination and so notifies the requester. The Deciding Official should notify the requester in writing of Treasury's determination on appeal and, if applicable, the reasons for any whole or partial denial of the appeal. The Office of Security Programs will also notify the requester of their right of a final appeal to the Interagency Security Classification Appeals Panel, as appropriate, under 32 CFR 2001.33.

(8)(i) Treasury may charge fees for search, review, and duplicating costs in connection with a mandatory declassification review request.

(A) The fee for services of Treasury personnel involved in locating and/or reviewing records will be charged at the rate of a GS-11, Step 1 employee, in the Washington-Baltimore Federal pay area, in effect when the mandatory declassification review request is received by the Office of Security Programs for searches that take more than two hours or for review times that are greater than two hours. Fees may be waived, in writing, by a bureau head or the equivalent Treasury official at the Assistant Secretary level.

(B) There is no fee for duplicating the first 100 pages of fully or partially releasable documents. The cost of additional pages is 20 cents per page. No charges shall be levied for search and/or review time requiring less than 2 hours.

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(ii) If it is estimated that the fees associated with a mandatory declassification review will exceed \$100, the Office of Security Programs will notify the requester in writing of the estimated costs and shall obtain satisfactory written assurance of full payment or require the requester to make an advance payment of the entire estimated fee before proceeding to process the request. Treasury may request pre-payment where the fee is likely to exceed \$500. After 60 calendar days without receiving the requester's written assurance of full payment or agreement to make pre-payment of estimated fees (or to amend the mandatory declassification review request in a manner as to result in fees acceptable to the requester), Treasury may administratively terminate the mandatory declassification review request. Failure of a requester to pay fees after billing will result in future requests not being honored. Nothing in this paragraph will preclude Treasury from taking any other lawful action to recover payment for costs incurred in processing a mandatory declassification review request.

(iii) Payment of fees shall be made by check or money order to the Treasurer of the United States. Fees charged by Treasury for mandatory declassification review are separate and distinct from any other fees that may be imposed by a Presidential Library, the National Archives and Records Administration, or another Federal department or agency.

§ 2.2 Access to classified information by historical researchers, former Treasury Presidential and Vice Presidential appointees, and former Presidents and Vice Presidents.

(a) Access to classified information may be granted only to individuals who have a need-to-know the information. This requirement may be waived, however, for individuals who:

(1) Are engaged in historical research projects;

(2) Previously occupied a position in the Treasury to which they were appointed by the President under 3 U.S.C. 105(a)(2)(A), or the Vice President under 3 U.S.C. 106(a)(1)(A); or

(3) Served as President or Vice President.

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(b) Access to classified information may be granted to individuals described in paragraph (a) of this section upon:

(1) A written determination by Treasury's Senior Agency Official, under Section 5.4(d) of Executive Order 13292, that access is consistent with the interest of the national security; and

(2) Receipt of the individual's written agreement to safeguard classified information, including taking all appropriate steps to protect classified information from unauthorized disclosure or compromise. This written agreement must also include the individual's consent to have any and all notes (including those prepared or stored in electronic media, whether written or oral) reviewed by authorized Treasury personnel to ensure that no classified information is contained therein and, if so, that the classified information is not published.

(c)(i)(A) A historical researcher is not authorized to have access to foreign government information or information classified by another Federal department or agency.

(B) A former Treasury Presidential or Vice Presidential appointee is only authorized access to classified information that the former official originated, reviewed, signed or received while serving as such an appointee.

(C) A former President or Vice President is only authorized access to classified information that was prepared by Treasury while that individual was serving as President or Vice President.

(ii) Granting access to classified information pursuant to this section does not constitute the granting of a security clearance for access to classified information.

(d) Treasury personnel will coordinate access to classified information by individuals described in paragraph (a) of this section with the Director, Office of Security Programs, who will ensure that the written agreement described in paragraph (b)(2) of this section is signed as a condition of being granted access to classified information.

(e) Any review of classified information by an individual described in paragraph (a) of this section shall take place in a location designated by the

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Director, Office of Security Programs. Such persons must be accompanied at all times by appropriately authorized Treasury personnel authorized to have access to the classified information being reviewed. All notes (including those prepared or stored in electronic media, whether written or oral) made by an individual described in paragraph (a) of this section shall remain in the custody of the Office of Security Programs pending a determination by appropriately cleared subject matter experts that no classified information is contained therein.

(f) An individual described in paragraph (a) of this section is subject to search, as are all packages or carrying cases prior to entering or leaving Treasury. Access to Treasury-originated classified information at another Federal department or agency, as may be authorized by the Director, Office of Security Programs shall be governed by security protocols in effect at the other Federal department or agency.

(g) Treasury personnel must perform a physical verification and an accounting of all classified information each time such information is viewed by an individual described in paragraph (a) of this section. Physical verification and an accounting of all classified information shall be made both prior to and after viewing. Any discrepancy must be immediately reported to the Director, Office of Security Programs.

(h) An individual described in paragraph (a) of this section may be charged reasonable fees for services rendered by Treasury in connection with the review of classified information under this section. To the extent such services involve searching, reviewing, and copying material, the provisions of § 2.1(b)(8) shall apply.

PART 3—CLAIMS REGULATIONS AND INDEMNIFICATION OF DEPARTMENT OF TREASURY EMPLOYEES

Subpart A—Claims Under the Federal Tort Claims Act

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- 3.1 Scope of regulations.
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Subpart B—Claims Under the Small Claims Act

- 3.20 General.
- 3.21 Action by claimant.
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Subpart C—Indemnification of Department of Treasury Employees

- 3.30 Policy.

AUTHORITY: 28 U.S.C. 2672; 28 CFR part 14; 5 U.S.C. 301.

SOURCE: 35 FR 6429, Apr. 22, 1970, unless otherwise noted.

Subpart A—Claims Under the Federal Tort Claims Act

§ 3.1 Scope of regulations.

(a) The regulations in this part shall apply to claims asserted under the Federal Tort Claims Act, as amended, 28 U.S.C. 2672, accruing on or after January 18, 1967, for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an employee of the Department while acting within the scope of his office or employment, under circumstances where the United States if a private person, would be liable to the claimant for such damage, loss, injury, or death, in accordance with the law of the place where the act or omission occurred. The regulations in this subpart do not apply to any tort claims excluded from the Federal Tort Claims Act, as amended, under 28 U.S.C. 2680.

(b) Unless specifically modified by the regulations in this part, procedures and requirements for filing and handling claims under the Federal Tort Claims Act shall be in accordance with the regulations issued by the Department of Justice, at 28 CFR part 14, as amended.