

SECURITIES AND EXCHANGE COMMISSION

[Release No. PA-58; File No. S7-28-22]

Privacy Act of 1974; System of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notice of a new system of records.

SUMMARY: The Securities and Exchange Commission (SEC) proposes to establish SEC-35, Reasonable and Religious Accommodation Programs under the Privacy Act of 1974. The information in the system concerns employees, applicants, and members of the public who request or receive reasonable accommodations based on a medical condition or disability, or a sincerely held religious belief, practice, or observance. The SEC collects this information to evaluate, approve, deny, or implement requests for reasonable accommodations. This system will also allow the SEC to track and report the processing of requests for reasonable accommodations.

DATES: The changes will become effective January 6, 2023, to permit public comment on the routine uses. The Commission will publish a new notice if the effective date is delayed to review comments or if changes are made based on comments received. To assure consideration, comments should be received on or before January 6, 2023.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (<http://www.sec.gov/rules/other.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number S7-28-22 on the subject line.

Paper Comments:

- Send paper comments to Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to S7-28-22. This file number should be included on the subject line if email is used. To help process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/other.shtml>). Typically, comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission's public reference room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Ronnette McDaniel, Privacy and Information Assurance Branch Chief, 202-551-7200 or privacyhelp@sec.gov.

SUPPLEMENTARY INFORMATION: In order to collect and maintain information to evaluate, approve, deny, or implement requests for reasonable accommodation based on a medical condition or disability, or a sincerely held religious belief, practice, or observance, the SEC is establishing SEC-35, *Reasonable and Religious Accommodation Programs*, under the Privacy Act. The SEC is committed to providing reasonable accommodations related to a disability or sincerely held religious belief to allow SEC personnel to perform the essential functions of their jobs, participate in programs, and enjoy the benefits of employment. Records may include email correspondence with SEC personnel and requestors regarding reasonable accommodations, documentation submitted in support of a request for a reasonable

accommodation, and reasonable accommodation determinations. Information from this system of records will be collected, maintained, and disclosed in accordance with applicable law, regulations, and statutes, including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*; Sections 501, 503, 504, and 508 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*

SYSTEM NAME AND NUMBER:

SEC-35 Reasonable and Religious Accommodation Programs.

SECURITY CLASSIFICATION:

Non-classified.

SYSTEM LOCATION:

Securities and Exchange Commission (SEC), 100 F Street, NE, Washington, DC 20549. Files may also be maintained in the following SEC Regional Offices: Atlanta Regional Office (ARO), 950 East Paces Ferry Road, N.E., Suite 900, Atlanta, GA 30326-1382; Boston Regional Office (BRO), 33 Arch Street, 24th Floor, Boston, MA 02110-1424; Chicago Regional Office (CHRO), 175 W. Jackson Boulevard, Suite 1450, Chicago, IL 60604; Denver Regional Office (DRO), Byron Rogers Federal Office Building, 1961 Stout Street, Suite 1700, Denver, CO 80294-1961; Fort Worth Regional Office (FWRO), Burnett Plaza, 801 Cherry Street, Suite 1900, Unit 18, Fort Worth, TX 76102; Los Angeles Regional Office (LARO), 444 South Flower Street, Suite 900, Los Angeles, CA 90071; Miami Regional Office (MIRO), 801 Brickell Avenue, Suite 1950, Miami, FL 33131; New York Regional Office (NYRO), 100 Pearl Street, Suite 20-100, New York, NY 10004-2616; Philadelphia Regional Office (PLRO), One Penn Center, 1617 John F. Kennedy Boulevard, Suite 520, Philadelphia, PA 19103-1844; Salt Lake Regional Office

(SLRO), 351 S. West Temple St., Suite 6.100, Salt Lake City, UT 84101; and San Francisco Regional Office (SFRO), 44 Montgomery Street, Suite 2800, San Francisco, CA 94104.

SYSTEM MANAGER(S):

Chief Human Capital Officer (CHCO), Securities and Exchange Commission, Office of Human Resources, 100 F Street, NE, Washington, DC 20549.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*; Sections 501, 503, 504, and 508 of the Rehabilitation Act of 1973;), Americans with Disabilities Act of 1990, as amended (ADA), Executive Order 13164, *Requiring Federal Agencies To Establish Procedures To Facilitate the Provision of Reasonable Accommodation* (July 26, 2000); 5 CFR Part 339; 29 CFR Part 1602 and 1614; and Employment Opportunity Commission (EEOC) religious accommodation program regulations and guidance.

PURPOSE(S) OF THE SYSTEM:

The information in the system concerns employees, applicants, and members of the public who request or receive reasonable accommodations based on a medical condition or disability, or a sincerely held religious belief, practice, or observance. The SEC collects this information to evaluate, approve, deny, or implement requests for reasonable accommodations. This system will also allow the SEC to track and report the processing of requests for reasonable accommodations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SEC personnel (political appointees, employees, consultants, detailees, interns, and volunteers) who request or receive reasonable accommodations during their employment; contractors, job

applicants, and members of the public who request reasonable accommodations (Requestors); and individuals whom SEC personnel or Requestors authorize to submit information in support of their request (e.g., family members or attorneys).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information collected and maintained may include, but is not limited to:

- Email correspondence with SEC personnel and Requestors regarding reasonable accommodations, documentation submitted in support of a request for a reasonable accommodation, and reasonable accommodation determinations.
- Specific data elements may include: name, work address, work phone, work email address, office name, office location, position title, occupational series, pay grade, bargaining unit status, reasonable accommodation requested, reasonable accommodation request date, medical information, disability condition, work related limitations, disability status, religious beliefs, reason for seeking a reasonable accommodation, position related information, case notes, accommodation decision, decision basis, effective date of approved accommodation, decision-making official name and title, and contact information for individuals authorized to submit information in support of a request and for individuals responsible for processing requests.

RECORD SOURCE CATEGORIES:

Information is obtained from the requesting individual to whom the accommodation applies; persons authorized to act on behalf of the requesting individual (e.g., spouse, union representative, legal counsel, or colleague); authorized individuals responsible for processing

requests such as the Disability Program Officer (DPO), Reasonable Accommodation Coordinator (RAC), or Chief Human Capital Officer (CHCO); an employee's supervisor; medical provider(s); medical institutions; and agency medical physician(s).

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

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the Commission as a routine use pursuant to 5 U.S.C. 552 a(b)(3) as follows:

1. When (1) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the SEC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the SEC or another agency or entity) that rely upon the compromised information; and (3) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with the SEC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.
2. Where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the relevant records may be referred to the appropriate agency, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the applicable statute, rule, regulation, or order.

3. In connection with any judicial or administrative proceeding in which the Commission or past or present members of its staff is a party or otherwise involved in an official capacity.
4. To any persons during the course of any inquiry, examination, or investigation conducted by the SEC's staff, or in connection with civil litigation, if the staff has reason to believe that the person to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.
5. To respond to subpoenas in any litigation or other proceeding.
6. To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.
7. To members of Congress, the Government Accountability Office, or others charged with monitoring the work of the Commission or conducting records management inspections.
8. To interns, grantees, experts, contractors, and others who have been engaged by the Commission to assist in the performance of a service related to this system of records and who need access to the records for the purpose of assisting the Commission in the efficient administration of its programs. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.
9. To any person who is or has agreed to be subject to the Commission's Rules of Conduct regarding non-disclosure, particularly 17 CFR 200.735-3(b)(2), or has otherwise agreed to comply with provisions restricting the disclosure of SEC nonpublic information.
10. To another Federal agency or Federal entity, when the SEC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) 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.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system of records are stored electronically or on paper in secure facilities.

Electronic records are stored on the SEC's secure network. Records are maintained in electronic format and on paper in file folders in Microsoft outlook with Access to and use of these records limited to those persons whose official duties require such access and on electronic media through computerized records stored in the case management system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

These records are retrieved by the Requestor's name and/or case number that is assigned to the request in the systems of records and/or by office or region.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with records schedules of the United States Securities and Exchange Commission, and as approved by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to SEC facilities, data centers, and information or information systems is limited to authorized personnel with official duties requiring access. SEC facilities are equipped with security cameras and, at certain SEC facilities, 24-hour security guard service. Computerized records are safeguarded in a secured environment. Security protocols meet the promulgating guidance as established by the National Institute of Standards and Technology (NIST) Security

Standards from Access Control to Data Encryption and Security Assessment & Authorization (SA&A). Records are maintained in a secure, password-protected electronic system that will utilize commensurate safeguards that may include: firewalls, intrusion detection and prevention systems, and role-based access controls. Additional safeguards will vary by program. All records are protected from unauthorized access through appropriate administrative, operational, and technical safeguards. These safeguards include: restricting access to authorized personnel who have a “need to know”; using locks; and using password protection identification features. Contractors and other recipients providing services to the Commission shall be required to maintain equivalent safeguards.

RECORD ACCESS PROCEDURES:

Persons seeking to gain access to any record contained in this system of records may inquire in writing in accordance with instructions in SEC Privacy Act Regulations; 17 CFR 200.301 et seq. Address such request to: FOIA/PA Officer, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-2465

CONTESTING RECORD PROCEDURES:

Persons seeking to contest the content of any record contained in this system of records may inquire in writing in accordance with instructions in SEC Privacy Act Regulations, 17 CFR 200.301 et seq. Address such requests to: FOIA/PA Officer, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-2465.

NOTIFICATION PROCEDURES:

See “Record Access Procedures” above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

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By the Commission.

Dated: December 7, 2022

Sherry R. Haywood,
Assistant Secretary.