

## **SEC-43**

### **SYSTEM NAME:**

Office of Inspector General Investigative Files.

### **SYSTEM LOCATION:**

Office of the Inspector General, Securities and Exchange Commission (SEC), 100 F Street, NE, Washington, DC 20549. Closed investigatory files may be stored at a federal records center in accordance with the SEC's records retention schedule.

### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system of records contains records on individuals, including subjects, complainants, and witnesses, in connection with the Office of Inspector General's investigations or inquiries relating to programs and operations of the SEC.

### **CATEGORIES OF RECORDS IN THE SYSTEM:**

Records include: a case management system that contains a unique control number, descriptive information, and supporting documents for each investigation or preliminary inquiry; incoming complaints and complaint logs; preliminary inquiry files and indexes; correspondence relating to investigations; internal staff memoranda concerning investigations; copies of all subpoenas issued during investigations; subpoena logs; affidavits, declarations and statements from witnesses; transcripts of interviews conducted or testimony taken in the investigation and accompanying exhibits; documents and records obtained during investigations; working papers of the staff and other documents and records relating to the investigation; investigative plans, operation plans, status reports, reports of investigation, and closing memoranda; information and documents relating to grand jury proceedings; arrest and search warrant affidavits; information and documents relating to criminal, civil, and administrative actions; information and documents received from other law enforcement entities; personnel information for witnesses and subjects; and investigative peer review files.

### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Inspector General Act of 1978, as amended, Pub. L. 95-452, 5 U.S.C. App.

### **PURPOSE(S):**

The purpose of this system of records is to enable the Office of Inspector General to effectively and efficiently conduct investigations relating to the programs and operations of the SEC, as authorized by the Inspector General Act of 1978, as amended.

### **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. To appropriate agencies, entities, and persons when (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b)

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 (c) the disclosure made to such agencies, entities, and persons is 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 a potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, foreign, state, or local, or to a securities self-regulatory organization, charged with enforcing or implementing the statute, or rule, regulation or order.
3. To Federal, foreign, state, or local authorities in order to obtain information or records relevant to an Office of Inspector General investigation or inquiry.
4. To non-governmental parties where those parties may have information the Office of Inspector General seeks to obtain in connection with an investigation or inquiry.
5. To respond to subpoenas in any litigation or other proceeding.
6. In connection with proceedings by the Commission pursuant to Rule 102(e) of its Rules of Practice, 17 CFR 201.102(e).
7. To a bar association, state accountancy board, or other federal, state, local, or foreign licensing or oversight authority; or professional association or self-regulatory authority to the extent that it performs similar functions (including the Public Company Accounting Oversight Board) for investigations or possible disciplinary action.
8. To a federal, state, local, tribal, foreign, or international agency, if necessary to obtain information relevant to the SEC's decision concerning the hiring or retention of an employee; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or other benefit.
9. To a federal, state, local, tribal, foreign, or international agency in response to its request for information concerning the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.
10. To produce summary descriptive statistics and analytical studies, as a data source for management information, in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; may also be used to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

11. To inform complainants, victims, and witnesses of the results of an investigation or inquiry.
12. To any persons during the course of any inquiry, audit, 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.
13. 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, including by performing clerical, stenographic, or data analysis functions, or by reproduction of records by electronic or other means. 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.
14. To qualified individuals or organizations in connection with the performance of a peer review or other study of the Office of Inspector General's audit or investigative functions.
15. To a Federal agency responsible for considering debarment or suspension action if the record would be relevant to such action.
16. To the Department of Justice for the purpose of obtaining its advice on Freedom of Information Act matters.
17. 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.
18. To the Office of Government Ethics (OGE) to comply with agency reporting requirements established by OGE in 5 CFR 2638, subpart F.
19. To the Department of Justice and/or the Office of General Counsel of the SEC when the defendant in litigation is: (a) Any component of the SEC or any employee of the SEC or any employee of the SEC in his or her official capacity; (b) the United States where the SEC determines that the claim, if successful, is likely to directly affect the operations of the SEC; or (c) any SEC employee in his or her individual capacity where the Department of Justice and/or the Office of General Counsel of the SEC agree to represent such employee.
20. To the news media and the public when there exists a legitimate public interest (*e.g.*, to provide information on events in the criminal process, such as an indictment).
21. To the Council of the Inspectors General on Integrity and Efficiency, another Federal Office of Inspector General, or other Federal law enforcement office in connection with an allegation of wrongdoing by the Inspector General or staff members of the Office of Inspector General.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in electronic and paper format. Electronic records are stored in computerized databases, magnetic disc, tape and/or digital media. Paper records and records on computer disc are stored in locked file rooms and/or file cabinets.

**RETRIEVABILITY:**

The records may be retrieved by the name of the complainant, subject, witness, or victim; the investigative staff name for the investigation or inquiry; or other indexed information.

**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 24-hour security guard service. The records are kept in limited access areas during duty hours and in locked file cabinets and/or locked offices or file rooms at all other times. 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 password protection identification features. Contractors and other recipients providing services to the Commission shall be required to maintain equivalent safeguards.

**RETENTION AND DISPOSAL:**

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with the SEC’s records retention schedule, as approved by the National Archives and Records Administration.

**SYSTEM MANAGER(S) AND ADDRESS:**

Inspector General, Office of Inspector General, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

**NOTIFICATION PROCEDURE:**

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the FOIA/PA Officer, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-2736.

**RECORD ACCESS PROCEDURES:**

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the FOIA/PA Officer, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-2736.

**CONTESTING RECORD PROCEDURES:**

See record access procedures above.

**RECORD SOURCE CATEGORIES:**

Information in these records is supplied by: Individuals including, where practicable, those to whom the information relates; witnesses, corporations and other entities; records of individuals and of the SEC; records of other entities; Federal, foreign, state or local bodies and law enforcement agencies; documents and correspondence relating to litigation; transcripts of testimony; and miscellaneous other sources.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Pursuant to 5 U.S.C. 552a(j)(2) and 17 CFR 200.313(a), this system of records, is exempt from the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i), and 17 CFR 200.303, 200.403, 200.306, 200.307, 200.308, 200.309, and 200.310, insofar as the system contains information pertaining to criminal law enforcement investigations.

Pursuant to 5 U.S.C. 552a(k)(2) and 17 CFR 200.313(b), this system of records is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), and 17 CFR 200.303, 200.304, and 200.306, insofar as the system contains investigatory materials compiled for law enforcement purposes.