



NATIONAL  
ARCHIVES

Elizabeth M. Murphy  
Secretary  
U.S. Securities and Exchange Commission  
100 F. Street NE  
Washington, DC 20549-1090  
[rule-comments@sec.gov](mailto:rule-comments@sec.gov)

*(Submitted via e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov) with File No. S7-10—12 in the subject line, as per instructions in the Federal Register notice, Vol. 77, No. 211/Wednesday October 31, 2012)*

**RE: The Securities and Exchange Commission, Privacy Act of 1974: Systems of Records. Notice to revise existing system of records, “Freedom of Information Act Requests (SEC-24).” Docket No. 2012-26724.**

These comments are offered on behalf of the National Archives and Records Administration’s Office of Government Information Services (OGIS) regarding SEC System of Records Notice pertaining to Freedom of Information Act Requests (SEC-24).

OGIS, created by the OPEN Government Act of 2007 as the Freedom of Information Act (FOIA) Ombudsman, has the statutory mandate to review FOIA policies, procedures and compliance of administrative agencies, and to offer mediation services to resolve disputes between FOIA requesters and agencies. See 5 U.S.C. § 552(h)(1)-(3). We advocate for neither the requester nor the agency, but for the FOIA process to work as intended.

OGIS commends the SEC for revising its routine use to allow it to discuss with OGIS FOIA and Privacy Act request and appeal files, which are protected by the Privacy Act of 1974. Because agencies are prohibited from sharing information contained in those files without prior written consent of the requester or the existence of a routine use allowing such disclosure, OGIS obtains consent from requesters seeking our assistance. For this reason, OGIS has obtained signed and dated consents from more than 1,000 requesters since opening three years ago.

Amending agencies’ SORNs to include OGIS as a routine use builds efficiencies into the FOIA administrative process, of which OGIS is an important part. Four Cabinet-level departments and two agencies have revised their Privacy Act system of records notices (SORNs) to include a routine use that allows the sharing of information with OGIS, not only for purposes of resolving disputes, but also to facilitate OGIS’s second statutory mission of reviewing administrative agency policies, procedures and compliance with FOIA. OGIS worked with the

NATIONAL ARCHIVES *and*  
RECORDS ADMINISTRATION

8601 ADELPHI ROAD  
COLLEGE PARK, MD 20740-6001

[www.archives.gov](http://www.archives.gov)

Department of Justice (DOJ) to develop a model routine use that agencies can use and offers the following language:

*To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. § 552(h), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.*

In addition to DOJ, the Departments of Health and Human Services, State and Transportation, the Office of Special Counsel and the U.S. Postal Service have revised their SORNs to include a routine use that allows the sharing of information with OGIS. OGIS urges the SEC to expand routine use No. 15 to include OGIS's second statutory mission of reviewing administrative agency policies, procedures and compliance with FOIA.

Comments submitted on behalf of the National Archives by:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road—OGIS  
College Park, MD 20740  
ogis.archives.gov  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 202-741-5770  
Facsimile: 202-741-5769  
Toll-free: 1-877-684-6448