

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. PA-40; File No. S7-19-09]

**Privacy Act of 1974:** Establishment of a System of Records.

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice to establish a system of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission (“Commission” or “SEC”) gives notice of a proposed Privacy Act system of records: “Ethics Conduct Rules Files (SEC-60).” This system will contain information related to applicable SEC Ethics Conduct Rules (currently found at 17 CFR Part 200 Subpart M), including outside employment and activities, and covered securities transactions, securities holdings and securities accounts.

**DATES:** The proposed system will become effective October 13, 2009, unless further notice is given. 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 be assured of consideration, comments should be received on or before October 8, 2009.

**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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7-19-09 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-19-09. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/other.shtml>). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. 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 available publicly.

**FOR FURTHER INFORMATION CONTACT:** Barbara A. Stance, Chief Privacy Officer, Office of Information Technology, 202-551-7209.

**SUPPLEMENTARY INFORMATION:** The Commission gives notice of the proposed establishment of a system of records, entitled "Ethics Conduct Rules Files (SEC-60)." The system will contain information related to the SEC's "Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission" ("Ethics Conduct Rules"), currently located at 17 CFR Part 200 Subpart M, including outside employment and activities, and covered securities transactions, securities holdings and securities accounts.

On May 22, 2009, to consolidate related responsibilities, the Commission transferred all the Commission's Ethics Rules responsibilities that resided in the Office of Human Resources (consisting particularly of the administration of all of the SEC Ethics Conduct Rules files) to the Commission's Ethics Office. Consistent with the transfer of responsibilities, the Commission is establishing a system of records in the Ethics Office to maintain records related to the Ethics Conduct Rules applicable to Commission Members and employees, including reports on securities transactions, holdings, and accounts required by applicable Federal securities laws and regulations.

The Commission has submitted a report of the system of records to the Senate Committee on Homeland Security and Government Affairs, the House Committee on Government Reform, and the Office of Management and Budget, pursuant to 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, and Appendix I to OMB Circular A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," as amended on February 20, 1966 (61 FR 6435).

Accordingly, the Commission is establishing a system of records to read as follows:

**SEC-60**

**SYSTEM NAME:**

Ethics Conduct Rules Files

**SYSTEM LOCATION:**

Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

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

SEC Members and employees, past and present.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information relating to the SEC’s “Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission” (“Ethics Conduct Rules”), currently located at 17 CFR Part 200 Subpart M, including outside employment and activities, and covered securities transactions, securities holdings and securities accounts.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The Federal securities laws (15 U.S.C. 77s, 78w, 77sss, 80a-37 and 80b-11) and the regulations promulgated thereunder, including the Ethics Conduct Rules currently located at 17 CFR Part 200 Subpart M.

**PURPOSE(S):**

For use by authorized SEC Ethics Office personnel, designated by the Ethics Counsel, and from time to time certain other SEC personnel, designated by the Ethics Counsel in his or her discretion, in connection with their official functions related to administering and supervising compliance with the Commission’s Ethics Conduct Rules.

**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. 552a(b)(3) as follows:

1. To a Federal, State, or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation;

2. To a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena;
3. To a source when necessary to obtain information relevant to a conflict of interest or securities law investigation or decision;
4. To the National Archives and Records Administration or the General Services Administration in records management inspections;
5. To the Office of Management and Budget during legislative coordination on private relief legislation;
6. To the Department of Justice or in certain legal proceedings when the disclosing agency, and employee of the disclosing agency, or the United States is a party to litigation or has an interest in the litigation and the use of such records is deemed relevant and necessary to the litigation;
7. To reviewing officials in a new office, department or agency when an employee transfers from one position to another subject to the Ethics Conduct Rules;
8. To a Member of Congress or a congressional office in response to an inquiry made on behalf of an individual who is the subject of the record;
9. To interns, grantees, experts and contractors 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;

10. When (1) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Commission 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 Commission 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 Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm; and
11. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

**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 and/or on computer disc. Paper records and records on computer disc are stored in locked file rooms and/or metal file cabinets.

**RETRIEVABILITY:**

Records may be retrieved by the individual's name or other personal identifiers, as well as non-identifying information. Information regarding individuals may be obtained through the use of cross-reference methodology.

**SAFEGUARDS:**

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24 hour security guard service. Access is limited to those personnel whose official duties require access. Paper records are maintained 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 through use of access codes and information technology security.

**RETENTION AND DISPOSAL:**

These records will be maintained for 6 years or otherwise in accordance with records schedules of the Commission and as approved by the National Archives and Records Administration.

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

The Ethics Counsel and the Designated Agency Ethics Official, Office of the General Counsel, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1050.

**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/Privacy Act Officer, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5100.

**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/Privacy Act Officer, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5100.

**CONTESTING RECORD PROCEDURES:**

See Record Access Procedures above.

**RECORD SOURCE CATEGORIES:**

Information is provided by current Members and employees of the Commission or their designees in accordance with the requirements of the SEC Ethics Conduct Rules.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

By the Commission.

Elizabeth M. Murphy  
Secretary

Date: September 1, 2009