

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. PA-49; File No. S7-10-12 ]**

**Privacy Act of 1974:** Systems of Records.

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice to establish a new system of records and to revise two existing systems 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”) proposes to establish a new system of records, “Backup Care Employee and Family Records (SEC-66).” Additionally, two existing systems of records are being revised: “Freedom of Information Act Requests (SEC-24)” last published in the Federal Register Volume 62, Number 176 on Thursday, September 11, 1997 and “Child Care Subsidy Program (SEC-41)”, last published in the Federal Register Volume 65, Number 155 on Thursday, August 10, 2000.

**DATES:** The proposed systems will become effective [insert date that is 40 days after publication in the Federal Register] 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 [insert date that is 30 days after publication in the Federal Register].

**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 – 10-12 on the subject line.

Paper Comments:

Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090. All submissions should refer to File Number S7 -10-12. 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 website (<http://www.sec.gov/rules/other.shtml>). 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 10:00 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:** Todd Scharf, Acting Chief Privacy Officer, Office of Information Technology, 202-551-8800.

**SUPPLEMENTARY INFORMATION:**

The Commission proposes to establish a new system of records, "Backup Care Employee and Family Records (SEC-66)", and to revise two existing systems of records, "Freedom of Information Act Requests (SEC-24)" and "Child Care Subsidy Program (SEC-41)". The Backup Care Employee and Family Records (SEC-66) system of records contains records of current SEC employees who voluntarily sign up for backup care benefits and their family members for whom care is needed.

The Freedom of Information Act Requests (SEC-24) system of records consists of records used by Commission staff to process FOIA and Privacy Act requests and appeals, and to prepare reports to the Department of Justice, the Office of Management and Budget, and other

oversight entities on the Commission's FOIA and PA activities. Minor administrative changes to SEC-24 have been incorporated to update the Commission's current address in the following sections: System Location, and Notification, Access and Contesting Records Procedures.

Substantive changes to the notice have been made to the following sections: (1) System Name, changing the title to: "Freedom of Information and Privacy Act Requests (SEC-24)"; (2) Categories of Individuals, updating the types of individuals whose personally identifiable information is contained in the system; (3) Categories of Records, updating the types of records maintained in the system; (4) Routine Uses, updating existing routine uses and adding new routine uses as applicable to this system of records (those numbered 1 through 16); and (5) Record Source, updating the sources from which records are received.

The Child Care Subsidy Program (SEC-41) system of records consist of records used to determine eligibility for, and the amount of, the child care tuition subsidy for eligible SEC employees. Minor administrative changes to SEC-41 have been incorporated to update the Commission's current address in the following sections: Notification, Access and Contesting Records Procedures. Substantive changes to the notice have been made to the following sections: (1) System Location, updating the current locations where records are maintained; and (2) Routine Uses, updating existing routine uses and adding new routine uses as applicable to this system of records (those numbered 1 through 5).

The Commission has submitted a report of the new system of records and the amended existing systems of records to the appropriate Congressional Committees and to the Director of the Office of Management and Budget ("OMB") as required by 5 U.S.C. § 552a(r) (Privacy Act of 1974) and guidelines issued by OMB on December 12, 2000 (65 FR 77677).

Accordingly, the Commission is proposing to establish one new system of records and revise two existing systems of records to read as follows:

**SEC-66**

**SYSTEM NAME:**

Backup Care Employee and Family Records.

**SYSTEM LOCATION:**

Bright Horizons Family Solutions, 200 Talcott Avenue, Watertown, MA 02472. Records may also be maintained at subcontracted childcare center locations. Electronic Reports of SEC employees' registrations and uses are maintained at the Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

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

Current SEC employees who voluntarily sign up for backup care benefits and their family members for whom care is needed.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records may contain employee name, email address, home address, home and cell telephone numbers, and date of birth; family member's name, address, date of birth, physician medical form, and medical identification number; photos of child, and individuals authorized to pick up child; and provider's name.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

40 U.S.C §590

**PURPOSE(S):**

The records are used to determine an employee's eligibility to request backup care benefits for family members.

**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. 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.
3. 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.

4. 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.
5. To members of Congress, the Government Accountability Office, or others charged with monitoring the work of the Commission or conducting records management inspections.
6. To a commercial contractor in connection with benefit programs administered by the contractor on the Commission's behalf, including, but not limited to, supplemental health, dental, disability, life and other benefit 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.

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

**STORAGE:**

Records are maintained in electronic 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 file cabinets.

**RETRIEVABILITY:**

Records are retrieved by the individual's name.

**SAFEGUARDS:**

Records are safeguarded in a secured environment. The records are kept in limited access areas and/or locked offices or file rooms at all other times. Computerized records are safeguarded through use of access codes and information technology security. Access is limited to those

personnel whose official duties require access. 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 records schedules of the United States Securities and Exchange Commission and as approved by the National Archives and Records Administration.

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

Associate Executive Director, Office of Human Resources, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-3901.

**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 PROCEDURE:**

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 PROCEDURE:**

See Record access procedures above.

**RECORD SOURCE CATEGORIES:**

All information is provided by SEC employees registering for the services.

**EXEMPTION CLAIMED FOR THE SYSTEM:**

None.

## **SEC-24**

### **SYSTEM NAME:**

Freedom of Information and Privacy Act Requests.

### **SYSTEM LOCATION:**

Securities and Exchange Commission, Office of Freedom of Information Act (FOIA) Services, 100 F Street, NE, Washington, DC 20549. Other offices involved in the processing of requests may also maintain copies of the requests and related internal administrative records.

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

Records are maintained on persons requesting information from the Commission pursuant to provisions of the Freedom of Information Act; persons who are the subject of Freedom of Information Act requests; individuals who have submitted requests for information about themselves or on behalf of an individual under the provisions of the Privacy Act of 1974; and individuals filing an administrative appeal of a denial, in whole or part, of any such request.

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

Records received, created or compiled in processing FOIA and PA requests or appeals, including internal memoranda, correspondence to or from other Federal agencies, correspondence and response letters, appeal of denials under the FOIA, request for amendment of records under the Privacy Act, appeal for denials under the Privacy Act, appeal determinations, and electronic tracking data. These records may contain personal information retrieved in response to a request including requesters' and their attorneys' or representatives' names, addresses, e-mail, telephone numbers, and FOIA and PA case numbers; office telephone numbers of SEC employees and contractors; Names, telephone numbers, and addresses of the submitter of the information



requested; Unique case identifier; Social security number; or other identifier assigned to the request or appeal.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. §552, and §552a; Executive Order 9397.

**PURPOSE(S):**

The records are used by Commission staff to process FOIA and Privacy Act requests and appeals, and to prepare reports to the Department of Justice, the Office of Management and Budget, and other oversight entities on the Commission's FOIA and PA activities.

**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 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. To other federal, state, local, or foreign law enforcement agencies; securities self-regulatory organizations; and foreign financial regulatory authorities to assist in or coordinate regulatory or law enforcement activities with the SEC.
3. To national securities exchanges and national securities associations that are registered with the SEC, the Municipal Securities Rulemaking Board; the Securities Investor Protection Corporation; the Public Company Accounting Oversight Board; the federal banking authorities, including, but not limited to, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation; state securities regulatory agencies or organizations; or regulatory authorities of a foreign government in connection with their regulatory or enforcement responsibilities.
4. In any proceeding where the federal securities laws are in issue or in which the Commission, or past or present members of its staff, is a party or otherwise involved in an official capacity.
5. 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.
6. 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.

7. 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.
8. To members of advisory committees that are created by the Commission or by Congress to render advice and recommendations to the Commission or to Congress, to be used solely in connection with their official designated functions.
9. To respond to subpoenas in any litigation or other proceeding.
10. To a third party authorized in writing to receive such information by the individual about whom the information pertains.
11. To another Federal agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, (b) verify the identify of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records, or (c) to process payment of fees associated with FOIA/PA requests.
12. To the Department of Justice (DOJ) in order to obtain that department's advice on FOIA matters or regarding the agency's FOIA disclosure obligations.
13. To the Office of Management and Budget for the purpose of obtaining its advice on Privacy Act matters.
14. To the public pursuant to the provisions of the FOIA, 5 U.S.C. § 552.

15. To the Office of Government Information Services (OGIS) National Archives and Records Administration, in connection with mediation of FOIA requests.
16. To members of Congress, the Government Accountability Office, or others charged with monitoring the work of the Commission or conducting records management inspections.
17. 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.
18. To any person who is or has agreed to be subject to the Commission's Rules of Conduct, 17 CFR 200.735-1 to 200.735-18, and who assists in the investigation by the Commission of possible violations of the federal securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, 15 U.S.C. § 78c(a)(47)), in the preparation or conduct of enforcement actions brought by the Commission for such violations, or otherwise in connection with the Commission's enforcement or regulatory functions under the federal securities laws.
19. 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.
20. In connection with any litigation challenging or seeking to enjoin actions by the Commission under the Freedom of Information Act, as amended.

**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 file cabinets.

**RETRIEVABILITY:**

Electronic files and paper format records are indexed and retrieved by a unique case number assigned to the request. Records may also be retrieved by the requestor name and/or the subject of the request.

**SAFEGUARDS:**

Records are safeguarded in a secured environment. Buildings where records are stored have 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. Access is limited to those personnel whose official duties require access. Computerized records are safeguarded through use of access codes and information technology security. Contractors and other recipients providing services to the Commission shall be required to maintain equivalent safeguards.

**RETENTION AND DISPOSAL:**

These records are maintained in accordance with general records schedules of the National Archives and Records Administration, General Records Schedule 14.

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

FOIA/PA Officer, Office of FOIA Services, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-2736.

**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 PROCEDURE:**

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 PROCEDURE:**

See Record access procedures above.

**RECORD SOURCE CATEGORIES:**

Persons requesting information from the Commission pursuant to the Freedom of Information Act and the Privacy Act; agency employees assigned to handle processing the requests; agency records searched and identified as responsive in the process of responding to such requests; other agencies or entities that have referred to SEC requests concerning SEC records, or that have consulted with SEC regarding handling of particular requests; and submitters or subjects of records or information that have provided assistance to SEC in making access or amendment determinations.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**SEC-41**

**SYSTEM NAME:**

Child Care Subsidy Program.

**SYSTEM LOCATION:**

Childcare Subsidy Program Applications: Federal Employee Education and Assistance Fund (FEEA) - SEC Child Care Subsidy, 8441- W. Bowles Ave, Suite 200, Littleton, CO 80123-9501.

Utilization reports and other related records: Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

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

Present and former SEC employees and their children and child care providers.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records contain (1) employee's name, social security number, telephone numbers, address, grade, gross annual salary, gross family income that was reported on the latest Federal income tax return, and number of dependent children; (2) employee's child's name, date of birth, social security number, weekly tuition cost, amount of child care tuition subsidy from state or local government; and (3) employee's child care provider's name, address, telephone number, tax identification number, and license number.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

40 U.S.C. 590(g); Executive Order 9397.

**PURPOSE(S):**

To determine eligibility for, and the amount of, the child care tuition subsidy for lower income SEC employees.

**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. 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.
3. 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.
4. To members of Congress, the Government Accountability Office, or others charged with monitoring the work of the Commission or conducting records management inspections.
5. To a commercial contractor in connection with benefit programs administered by the contractor on the Commission's behalf, including, but not limited to, supplemental health, dental, disability, life and other benefit 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.



6. 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.
7. To any Federal, state, or local government authority implementing child care subsidy programs or investigating a violation or potential violation of a statute, rule, regulation, or order.
8. To the Office of Personnel Management to be used for evaluating the child care subsidy program.

**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 file cabinets.

**RETRIEVABILITY:**

These records are retrieved by the employee name or social security number.

**SAFEGUARDS:**

Records are safeguarded in a secured environment. Buildings where records are stored have 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. Access is limited to those personnel whose official duties require access. Computerized records are safeguarded through use of access codes and information technology security. 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 records schedules of the United States Securities and Exchange Commission and as approved by the National Archives and Records Administration.

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

Associate Executive Director, Office of Human Resources, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-3901

**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 PROCEDURE:**

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 PROCEDURE:**

See Record access procedures above.

**RECORD SOURCE CATEGORIES:**

Applications for child care subsidy and supporting records, which are voluntarily submitted by employees.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

By the Commission.

Elizabeth M. Murphy  
Secretary

Date: October 25, 2012