

For the Nuclear Regulatory Commission.
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RAILROAD RETIREMENT BOARD

Computer Matching and Privacy Protection Act of 1988; Notice of RRB and SSA Records Used in Computer Matching

AGENCY: Railroad Retirement Board (RRB).

ACTION: Notice of records used in computer matching programs; notification to individuals who are railroad employees, or applicants and beneficiaries under the Railroad Retirement Act or who are applicants or beneficiaries under the Social Security Act.

SUMMARY: As required by the Computer Matching and Privacy Protection Act of 1988, RRB is issuing public notice of its use and intent to use, in ongoing computer matching programs, information obtained from the Social Security Administration (SSA) of the amount of wages reported to SSA and the amount of benefits paid by that agency. The RRB is also issuing public notice, on behalf of the Social Security Administration, of SSA's use and intent to use, in ongoing computer matching programs, information obtained from the RRB of the amount of railroad earnings reported to the RRB.

The purposes of this notice are (1) to advise individuals applying for or receiving benefits under the Railroad Retirement Act of the use made by RRB of this information obtained from SSA by means of a computer match and (2) to advise individuals applying for or receiving benefits under the Social Security Act of the use made by SSA of this information obtained from RRB by means of a computer match.

ADDRESSES: Interested parties may comment on this publication by writing to Ms. Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092.

FOR FURTHER INFORMATION CONTACT: Mr. LeRoy Blommaert, Privacy Act Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092, telephone number (312) 751-4548.

SUPPLEMENTARY INFORMATION: The Computer Matching and Privacy Protection Act of 1988, Pub. L. 100-503, requires a Federal agency participating in a computer matching program to publish a notice regarding the establishment of a matching program. The last notice for the matching program which began October 2, 2000, was published at 65 FR 50724 (August 21, 2000).

Name of Participating Agencies: Social Security Administration and Railroad Retirement Board.

Purpose of the Match: The RRB will, on a daily basis, obtain from SSA a record of the wages reported to SSA for persons who have applied for benefits under the Railroad Retirement Act and a record of the amount of benefits paid by that agency to persons who are receiving or have applied for benefits under the Railroad Retirement Act. The wage information is needed to compute the amount of the tier I annuity component provided by sections 3(a), 4(a) and 4(f) of the Railroad Retirement Act (42 U.S.C. 231b(a), 45 U.S.C. 231c(a) and 45 U.S.C. 231c(f)). The benefit information is needed to adjust the tier I annuity component for the receipt of the Social Security benefit. This information is available from no other source.

In addition, the RRB will receive from SSA the amount of certain social security benefits which the RRB pays on behalf of SSA. Section 7(b)(2) of the Railroad Retirement Act (45 U.S.C. 231f(b)(2)) provides that the RRB shall make the payment of certain social security benefits. The RRB also requires this information in order to adjust the amount of any annuity due to the receipt of a social security benefit. Section 10(a) of the Railroad Retirement Act (45 U.S.C. 231i(a)) permits the RRB to recover any overpayment from the accrual of social security benefits. This information is not available from any other source.

Thirdly, the RRB will receive from SSA once a year a copy of SSA's Master Benefit Record for earmarked RRB annuitants. Section 7(b)(7)) of the Railroad Retirement Act (45 U.S.C. 231f(b)(7)) requires that SSA provide the requested information. The RRB needs this information to make the necessary cost-of-living computation quickly and accurately for those RRB annuitants who are also SSA beneficiaries.

SSA will receive from RRB weekly RRB earnings information for all railroad employees. SSA will match the identifying information of the records furnished by the RRB against the identifying information contained in its Master Benefit Record and its Master

Earnings File. If there is a match, SSA will use the RRB earnings to adjust the amount of Social Security benefits in its Annual Earnings Reappraisal Operation (AERO). This information is available from no other source.

SSA will also receive from RRB on a daily basis RRB earnings information on selected individuals. The transfer of information may be initiated either by RRB or by SSA. SSA needs this information to determine eligibility to Social Security benefits and, if eligibility is met, to determine the benefit amount payable. Section 18 of the Railroad Retirement Act (45 U.S.C. 231q(2)) requires that earnings considered as compensation under the Railroad Retirement Act be considered as wages under the Social Security Act for the purposes of determining entitlement under the Social Security Act if the person has insufficient years of railroad service to qualify for an annuity under the Railroad Retirement Act, or has sufficient years of service but does not have a current connection with the railroad industry at the time of his/her death.

Authority for Conducting the Match: Section 7(b)(7) of the Railroad Retirement Act (45 U.S.C. 231f(b)(7)) provides that the Social Security Administration shall supply information necessary to administer the Railroad Retirement Act.

Sections 202, 205(o) and 215(f) of the Social Security Act (42 U.S.C. 402, 405(o) and 415(f)) relate to benefit provisions, inclusion of railroad compensation together with wages for payment of benefits under certain circumstances, and the recomputation of benefits.

Categories of Records and Individuals Covered: All applicants for benefits under the Railroad Retirement Act and current beneficiaries will have a record of any social security wages and the amount of any social security benefits furnished to the RRB by SSA. In addition, all persons who ever worked in the railroad industry after 1936 will have a record of their service and compensation furnished to SSA by RRB. The applicable Privacy Act Systems of Records used in the matching program are as follows:

RRB-5, Master File of Railroad Employees' Creditable Compensation; RRB-22, Railroad Retirement, Survivor, Pensioner Benefit System; SSA/OSR, 09-60-0090, Master Beneficiary Record (MBR); and SSA/OSR, 09-60-0059, Master Earnings File (MEF).

Inclusive Dates of the Matching Program: The consolidated matching program shall become effective no sooner than 40 days after notice of the

matching program is sent to Congress and the Office of Management and Budget (OMB), or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

The notice we are giving here is in addition to any individual notice.

A copy of this notice will be or has been furnished to the Office of Management and Budget and the designated committees of both Houses of Congress.

Dated: February 25, 2003. By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47394; File No. SR-NASD-2003-18]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to a Proposed Rule Change to Section 9 of Schedule A to the NASD By-Laws

February 24, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and rule 19b-4 thereunder,² notice is hereby given that on February 12, 2003, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in items I, II, and III below, which items have been prepared by NASD. NASD has designated the proposed rule change as "establishing or changing a due, fee, or other charge" under section 19(b)(3)(A)(ii) of the Act³ and rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend section 9, Schedule A of the By-Laws of NASD to implement a fee schedule for NASD member firms that choose to use a secure Web-based electronic file transfer application to submit to the CRD or IARD systems multiple form filings in a single transaction or to download member firm data and processing results from Web CRD or IARD. Below is the text of the proposed rule change. The proposed fee becomes operative on March 24, 2003. Proposed new language is in italics; proposed deletions are in brackets.

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Schedule A to the NASD By-Laws

Assessments and fees pursuant to the provisions of Article VI of the By-Laws of NASD shall be determined on the following basis.

* * * * *

Section 9—Subscription Charges for [Firm Access Query System (FAQS)] *Registration Batch Filing/Data Download Via the Web CRD Electronic File Transfer (EFT) System*

(a) Each firm electing to subscribe to the [Firm Access Query System (FAQS)] *Web CRD Electronic File Transfer (EFT) System for registration batch filing and/or data download* will be assessed [a user fee consisting of three components (1) a monthly data base access charge, (2) an hourly usage fee, and (3) a charge per 1,000 characters ("kilocharacter") of information sent or received.] *an annual subscription fee based on the type of service that the firm uses.* The fee schedule to be paid by each firm is as follows:

- (1) [Monthly Data Base Access Charge—\$70.00] *Data Download—\$1,800.00*
- (2) [Hourly Usage Charge—\$70.00 per hour; and] *Form Filing—\$3,600.00*
- (3) [Kilocharacter Transmission Charge—\$0.70] *Data Download and Form Filing—\$4,800.00*

[Each firm which subscribes to the service will provide its own terminal and modem.]

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements

may be examined at the places specified in item IV below. NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to amend section 9 of Schedule A to the NASD By-Laws by deleting the Firm Access Query System ("FAQS") subscription charges⁵ and, in its place, establishing a yearly subscription charge for NASD member firms that choose to use a new secure web-based electronic file transfer application ("Web EFT") to submit multiple Form U-4 and Form U-5 filings in a single transaction to the CRD or IARD systems (hereinafter referred to as "batch filing") or to download member firm data and processing results from the CRD or IARD systems.

Although NASD retired the legacy CRD system and the FAQS functionality in 1999, it did not retire a legacy electronic filing transfer ("Legacy EFT") application. Legacy EFT gives participating firms the ability to interface electronically with the CRD system to (1) submit "batch" filings and (2) download registration data and accounting reports on a regular basis. Legacy EFT, which is based on older technology that provides limited batch filing and data download capabilities, is currently available to NASD members that choose to submit form filings and download data via a dedicated (modem) line established by the firm.

In the first quarter of 2003, NASD plans to introduce Web EFT, a state-of-the-art application that will replace the current Legacy EFT.⁶ Web EFT will allow NASD firms to interface with NASD systems in an automated manner to submit batch filings to NASD and/or to download registration data (*i.e.*, firm

⁵ The FAQS functionality enabled members to enter non-disclosure-related amendments to the Form U-4, and full terminations (with or without disclosure) or partial terminations via the Form U-5 directly onto the legacy CRD system via a dedicated (modem) line established by the member. Upon implementation of the Web CRD system in August 1999, NASD retired the legacy CRD system (which relied primarily on hard copy filing of uniform registration forms that were data-entered upon receipt) and the FAQS functionality. Since the implementation of Web CRD, members use the Internet as their primary method of filing forms into the CRD system.

⁶ NASD plans to deploy the Web EFT application in the first quarter of 2003, but it does not plan to retire the Legacy EFT application until the third quarter of 2003. This will give firms time to test and convert to Web EFT.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).