

reviewed the terms and conditions of the Sale and of the Top-Up Payments and determined that both were protective of the interests of the Plans; (b) The Independent Fiduciary determined that the terms and conditions of both the Sale and the Top-Up Payments were at least as favorable to the Plans as those that would have been obtained in an arm's length transaction between unrelated parties; (c) The terms and conditions of both the Sale and of the Top-Up Payments were at least as favorable to the Plans as those that would have been obtained in an arm's length transaction between unrelated parties; and (d) The Independent Fiduciary provided its opinion in written reports on behalf of the Plans as to the fairness and reasonableness of the Sale of the Plans' interests in the Funds to the Applicant, and determined that the terms of the original Sale and subsequent Top-Up Payments were especially beneficial to each of the Plans because: (i) On February 20, 2009, the Plans received a return of their aggregate cost basis of their interests in the Funds (which cost basis was determined by the Independent Fiduciary to exceed the aggregate fair market value of the Plans' interests in the Funds as of October 31, 2008), plus interest accrued on the Funds from their date of acquisition by each Plan through the date of the Sale; and (ii) On September 14, 2009, the Independent Fiduciary determined that, in instances where the fair market value of any Fund on December 31, 2008 exceeded its original cost basis, each of the Plans received a Top-Up Payment on September 14, 2009 comprised of the increased value of such Fund, plus interest accrued on such increased value from December 31, 2008 to the date of the Top-Up Payments (September 14, 2009).

**Notice to Interested Persons:** Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the Applicant and the Department within 15 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due forty-five (45) days after publication of the notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Judge of the Department at (202) 693-8550. (This is not a toll-free number).

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve

a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which are the subject of the exemption.

Signed at Washington, DC, this 30th day of March 2010.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Employee Benefits Security Administration,  
U.S. Department of Labor.*

[FR Doc. 2010-7447 Filed 4-1-10; 8:45 am]

**BILLING CODE 4510-29-P**

---

## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### Notice of Intent To Audit

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Public notice.

**SUMMARY:** The Copyright Royalty Judges are announcing receipt of notices of intent to audit the 2009 statements of account submitted by Sirius Satellite Radio Inc. and XM Satellite Radio Inc.

**FOR FURTHER INFORMATION CONTACT:**

Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707-7658 or by e-mail at [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** Section 106(6) of the Copyright Act, title 17 of the United States Code, gives a copyright owner of sound recordings an exclusive right to perform the copyrighted works publicly by means of a digital audio transmission. This right is limited by section 114(d), which allows certain non-interactive digital audio services, including preexisting satellite digital audio radio services, to make digital transmissions of a sound recording under a compulsory license. Moreover, these services may make any necessary ephemeral reproductions to facilitate the digital transmission of the sound recording under a second license set forth in section 112(e) of the Copyright Act.

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms of the licenses set by the Copyright Royalty Judges ("Judges"). On January 24, 2008, the Judges issued their final determination setting rates and terms for the section 112 and 114 licenses for the period 2007-2012. 73 FR 4080, *affirmed in part, remanded in part, SoundExchange v. Librarian of Congress*, 571 F.3d 1220 (DC Cir. 2009). As part of the terms set for these licenses, the Judges designated SoundExchange, Inc., as the organization charged with collecting the royalty payments and statements of account and distributing the royalties to the copyright owners and performers entitled to receive such royalties under the section 112 and 114 licenses. 37 CFR 382.13(b)(1). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year for the purpose of verifying their royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and serve the notice on the licensee to be audited. 37 CFR 382.15(b), (c).

On March 23, 2010, pursuant to 37 CFR 382.15(c), SoundExchange filed with the Judges separate notices of intent to audit Sirius Satellite Radio Inc. ("Sirius") and XM Satellite Radio Inc. ("XM") for the year 2009.<sup>1</sup> Section

<sup>1</sup> On February 13, 2009, SoundExchange filed with the Judges separate notices of intent to audio

382.15(c) requires the Judges to publish a notice in the **Federal Register** within 30 days of receipt of the notice announcing the Collective's intent to conduct an audit.

In accordance with 37 CFR 382.15(c), the Copyright Royalty Judges are publishing today's notice to fulfill this requirement with respect to SoundExchange's separate notices of intent to audit Sirius Satellite Radio Inc. and XM Satellite Radio Inc. each filed March 23, 2010.

Dated: March 30, 2010.

**James Scott Sledge,**

*Chief U.S. Copyright Royalty Judge.*

[FR Doc. 2010-7444 Filed 4-1-10; 8:45 am]

**BILLING CODE 1410-72-P**

## OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

### Office of the Director of National Intelligence; Privacy Act of 1974; System of Records

**AGENCY:** Office of the Director of National Intelligence.

**ACTION:** Notice to establish systems of records.

**SUMMARY:** The Office of the Director of National Intelligence (ODNI) provides notice that it is establishing fourteen (14) new systems of records subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a. These systems of records are maintained by the ODNI.

**DATES:** This action will be effective on May 12, 2010, unless comments are received that result in a contrary determination.

**ADDRESSES:** You may submit comments, identified by RIN number, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>.

*Mail:* Director, Information Management, Office of the Director of National Intelligence, Washington, DC 20511.

**FOR FURTHER INFORMATION CONTACT:** Mr. John F. Hackett, Director, Information Management, 703-275-2215.

**SUPPLEMENTARY INFORMATION:** The ODNI was created by the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law 108-458, 118 Stat. 3638 (Dec. 17, 2004). ODNI published its final Privacy Act Regulation on March 28, 2008 (73 FR 16531) and twelve Privacy Act systems of records notices on December 28, 2007 (72 FR 73887). ODNI now adds fourteen (14)

additional systems of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a). These systems of records are subject to routine uses established by final rule dated March 28, 2008 (73 FR 16531, 16541). To protect classified and sensitive personnel or law enforcement information contained in these systems, the Office of the Director of National Intelligence is proposing to exempt these systems of records from certain portions of the Privacy Act where necessary, as permitted by law. As required by the Privacy Act, a proposed rule is being published concurrently with this notice to seek public comment on exemption of these systems. The ODNI has previously established a rule that it will preserve the exempt status of records it receives when the reason for the exemption remains valid (73 FR 16537). In accordance with 5 U.S.C. 552a (r), the ODNI has provided a report of these new systems of records to the Office of Management and Budget and to Congress.

Dated: March 25, 2010.

**John F. Hackett,**

*Director, Information Management.*

**SYSTEM NAME:**

Manuscript, Presentation, and Resume Review Records (ODNI-01).

**SECURITY CLASSIFICATION:**

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

**SYSTEM LOCATION:**

Office of the Director of National Intelligence, Washington, DC 20511.

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

Current and former employees of the Office of the Director of National Intelligence (ODNI), including assignees and detailees to the ODNI, contractors, individuals hired under the Intergovernmental Personnel Act, and other individuals who have had access to ODNI information or facilities and who are subject to prepublication review of writings or presentations pursuant to non-disclosure agreements.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Manuscripts and other writings (including those supporting oral presentations), resumes, videos, internet postings, and other works or products relating to the activities of the ODNI; records consulted in conducting pre-publication review; records generated in documenting pre-publication review decisions.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The National Security Act of 1947, as amended, 50 U.S.C. 401-442; The Federal Records Act of 1950, as amended, 44 U.S.C. 3101 *et seq.*; Executive Order 12333, as amended (73 FR 45325); Executive Order 12958, as amended (68 FR 15315); Executive Order 9397, as amended (73 FR 70239); and 32 CFR 1701 *et seq.* (73 FR 16531, 16541).

**PURPOSE(S):**

ODNI reviews writings intended for publication to ensure that potentially classified material or information that requires protection from public disclosure is not compromised.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

See General Routine Uses Applicable to More than One ODNI Privacy Act System of Records, Subpart C of ODNI's Privacy Act Regulation published at 32 CFR part 1701 (73 FR 16531, 16541) and incorporated by reference (*see also* <http://www.dni.gov>). In addition, a record from this system of records maintained by ODNI may be disclosed as a routine use to Federal agencies involved in a classification review of ODNI records.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

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

**STORAGE:**

Paper records are stored in secured areas within the control of the ODNI. Electronic records are stored in secure file-servers located within secure facilities under control of the ODNI.

**RETRIEVABILITY:**

By name and case number. Information may be retrieved from this system of records by automated or hand search based on indices and automated capabilities utilized in the normal course of business. All searches of this system of records will be performed in ODNI offices by authorized staff.

**SAFEGUARDS:**

Information in this system is safeguarded in accordance with recommended and/or prescribed administrative, physical, and technical safeguards. Records are maintained in a secure government or contractor facility with access to the facility limited to authorized personnel only and authorized and escorted visitors. Physical security protections include