Category	Adjusted twelve-month limit [1]
647/648	329,805 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–15960 Filed 6–24–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Further Extension of a Previously Announced Grace Period on Export Visa and Quota Requirements for Certain Textile Costumes Produced or Manufactured in Various Countries

June 20, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs extending a grace period on export visa and quota requirements for certain textile costumes.

SUMMARY: On March 1, 2002, the U.S. Customs Service published a notice in the Federal Register informing the public that certain imported textile costumes, entered for consumption or withdrawn from warehouse for consumption after March 1, 2002, are to be classified as wearing apparel in accordance with the Court of International Trade decision in Rubies Costume Company v. United States (67 FR 9504). This announcement applied to imported textile costumes of the character covered by the Customs decision published in the Federal Register on December 4, 1998 (see 63 FR 67170). On March 4, 2002, the Committee for the Implementation of Textile Agreements (CITA) published a notice and letter to the Commissioner of Customs in the Federal Register allowing a grace period before imposing quota and visa requirements on goods described above that are exported before April 1, 2002, and entered for consumption or withdrawn from warehouse for consumption before June 1, 2002 (see 67 FR 9706). On March 22, 2002, CITA published a notice and letter to the Commissioner of Customs extending that grace period, exempting from export visa and quota requirements goods described above that are exported before June 1, 2002, and entered for consumption or withdrawn from warehouse for consumption before August 1, 2002. (see 67 FR 13318).

On June 3, after a review, the United States Government made a final decision that it would appeal the U.S. Court of International Trade's decision in the case of Rubies Costume Company v. United States. In view of that appeal, CITA has decided to direct the U.S. Customs Service to exempt imported textile costumes of the character covered by the Customs decision published in the Federal Register on December 4, 1998 from quota and visa requirements until further notice. CITA will revisit this issue when a decision on the appeal is issued.

EFFECTIVE DATE: June 25, 2002.

FOR FURTHER INFORMATION CONTACT: Martin Walsh, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 20, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

This directive amends, but does not cancel, the directive issued to you on March 18, 2002 (67 FR 13318). In that directive, the Committee for the Implementation of Textile Agreements (CITA) extended a grace period on the export visa and quota requirements for the textile costumes of the character covered by the Customs decision published in the Federal Register on December 4, 1998 (see 63 FR 67170).

Effective on June 25, 2002, you are directed to exempt such textile costumes from quota and visa requirements until further notice. This exemption will be retroactive to cover such textile costumes exported between June 1, 2002 and the effective date of this directive.

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–15959 Filed 6–24–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46090]

Joint Order Granting the Modification of Listing Standards Requirements Under Section 6(h) of the Securities Exchange Act of 1934 and the Criteria Under Section 2(a)(1) of the Commodity Exchange Act

June 19, 2002.

The Commodity Futures Modernization Act of 2000 [1] (''CFMA''), which became law on December 21, 2000, lifted the ban on the trading of futures on single securities and on narrow-based security indexes (''security futures'') [2] in the United States. In addition, the CFMA established a framework for the joint regulation of these newly-permissible security futures products by the Commodity Futures Trading Commission (''CFTC'') and the Securities and Exchange Commission (''SEC'') (jointly, the ''Commissions''). Under the CFMA, national securities exchanges and national securities associations may trade security futures products if they register with the CFTC and comply with certain requirements of the Commodity Exchange Act (''CEA'').[3] Likewise, designated contract markets and registered derivatives transaction execution facilities (''DTEFs'') may trade security futures products if they register with the SEC and comply with certain other requirements of the Securities Exchange Act of 1934 (''Exchange Act'').[4]

As part of this new regulatory framework, the CFMA amended the Exchange Act and the CEA by, among other things, establishing the criteria and requirements for listing standards regarding the category of securities on which security futures products can be based. The Exchange Act [5] provides that it is unlawful for any person to effect transactions in security futures products that are not listed on a national securities exchange or a national securities association registered pursuant to section 15A(a) of the

[1] Pub. L. 106–554, 114 Stat. 2763 (2000).

[2] Section 6(h)(6) of the Exchange Act provides that options on security futures (''security futures products'') may not be traded until three years after the enactment of the CFMA and the determination jointly by the Securities and Exchange Commission and Commodity Futures Trading Commission to permit options on such futures. 15 U.S.C. 78f(h)(6).

[3] 7 U.S.C. 1 *et seq.*

[4] 15 U.S.C. 78a *et seq.*

[5] Section 6(h)(1) of the Exchange Act, 15 U.S.C. 78f(h)(1).

Exchange Act. The Exchange Act[6] further provides that such exchange or association is permitted to trade only security futures products that conform with listing standards filed with the SEC and that meet the criteria specified in section 2(a)(1)(D)(i) of the CEA.[7] Section 2(a)(1)(D)(i) of the CEA states that no board of trade shall be designated as a contract market with respect to, or registered as a DTEF for, any contracts of sale for future delivery of a security futures product unless the board of trade and the applicable contract meet the criteria specified in that section. Similarly, the Exchange Act[8] requires that the listing standards filed with the SEC by an exchange or association meet specified requirements.

In particular, the Exchange Act[9] and the CEA[10] require that, except as otherwise provided in a rule, regulation, or order, security futures must be based upon common stock and such other equity securities as the Commissions jointly determine appropriate.[11]

The Commissions have been asked to permit a national securities exchange, national securities association, designated contract market, or registered DTEF to list and trade a security future based on a share of an exchange-traded fund (''ETF''), a trust issued receipt (''TIR''), or a share of a registered closed-end management investment company (''Closed-End Fund'').[12] ETF shares, TIRs, and Closed-End Fund shares may not be common stock.[13] Accordingly, unless the Commissions jointly determine that ETF shares, TIRs, and Closed-End Fund shares are equity securities on which security futures may be based, futures on ETF shares, TIRs, and Closed-End Fund shares may not be eligible for listing and trading on a national securities exchange, national securities association, designated contract market, or registered DTEF because the requirement specified in section 6(h)(3)(D) of the Exchange Act and the criterion specified in section 2(a)(1)(D)(i)(III) of the CEA would not be satisfied.

Exchange-Traded Funds

An ETF is an investment company that is registered under the Investment Company Act of 1940 (''1940 Act'')[14] either as a unit investment trust (''UIT'') or as an open-end management investment company.[15] The fund itself issues shares only in large aggregate amounts, usually 50,000 shares (referred to as ''Creation Units'') at a price based on the net asset value (''NAV'') of the ETF's portfolio. These Creation Units are composed of individual shares (''ETF Shares'') that represent an ownership interest in the ETF's underlying portfolio of assets. ETFs do not redeem individual ETF Shares from holders at NAV.[16] Instead, an investor wishing to purchase or sell ETF Shares in an amount less than the size of a Creation Unit may do so in the secondary market. Because to date ETF Shares are listed and traded on national securities exchanges, they are registered under Section 12 of the Exchange Act.

Currently, all ETFs traded in the United States are based on specific domestic and foreign market indexes, most of which would not be considered to be a ''narrow-based security index'' under section 3(a)(55) of the Exchange Act and section 1a(25) of the CEA. An ETF seeks to track the performance of its benchmark index by holding in its portfolio either the contents of the index or a representative sample of the securities in the index. ETF Shares do not represent a direct ownership interest in the securities the ETF holds in its portfolio (rather, they represent a direct ownership interest in the fund itself) and do not provide for the ''delivery'' of the benchmark index. The holder of an ETF Share bears the risk that the performance of the ETF may not correspond exactly to the performance of the benchmark index, and the ETF Shares ultimately are tied in value to the fund's specific securities holdings rather than the value of the index.

Trust Issued Receipts

TIRs are securities representing beneficial ownership of the specific deposited securities represented by the receipts. Currently, Holding Company Depositary Receipts (''HOLDRs'') are the only TIRs listed and traded on national securities exchanges. Generally, HOLDRS represent an ownership interest in the underlying securities of the trust and are based on the securities of a particular industry. HOLDRS are not based on a particular benchmark index and do not track the performance of any index. The HOLDRS Trusts have not registered as investment companies under the 1940 Act.[17] TIRs generally are designed to allow investors to hold securities investments from a variety of companies in a single instrument that represents their beneficial ownership in the deposited securities. Beneficial owners have the same rights, privileges and obligations as they would have if they beneficially owned the deposited securities outside of the TIR program.[18] Holders of TIRs may cancel their TIRs at any time to receive the deposited securities. TIRs are registered under Section 12(b) of the Exchange Act.

Closed-End Funds

In contrast to an open-end management investment company that continuously offers redeemable shares, a Closed-End Fund is a management investment company that raises funds for investment by issuing a fixed number of non-redeemable shares through an initial public offering (''IPO'').[19] Following the IPO, investors

[6] Section 6(h)(2) of the Exchange Act, 15 U.S.C. 78f(h)(2).

[7] 7 U.S.C. 2(a)(1)(D)(i).

[8] Section 6(h)(3) of the Exchange Act, 15 U.S.C. 78f(h)(3).

[9] Section 6(h)(3)(D) of the Exchange Act, 15 U.S.C. 78f(h)(3)(D).

[10] Section 2(a)(1)(D)(i)(III) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(III).

[11] *See* Securities Exchange Act Release No. 44725 (August 20, 2001), in which the Commissions jointly issued an order permitting depositary shares to underlie a security future, and to be a component of a narrow-based security index, subject to certain conditions.

[12] *See* letter from Claire P. McGrath, Vice President and Deputy General Counsel, American Stock Exchange, to Catherine D. Dixon, Assistant Secretary, CFTC, and Jonathan G. Katz, Secretary, SEC, dated December 13, 2001, and letter from David F. Harris, General Counsel, Nasdaq Liffe Markets, LLC, to Jean A. Webb, Secretary, CFTC, and Jonathan G. Katz, Secretary, SEC, dated June 7, 2002.

[13] A registered investment company formed as a corporation rather than as a business trust could issue common stock. Because section 6(h)(3)(D) of the Exchange Act and section 2(a)(1)(D)(i)(III) of the CEA permit the listing of security futures products based on common stock, a security futures product could be based on the common stock of a registered management investment company without a joint order modifying the requirement of section 6(h)(3) of the Exchange Act and the criterion of section 2(a)(1)(D)(i)(III) of the CEA.

[14] 15 U.S.C. 80a–1 *et. seq.*

[15] Section 4(2) of the 1940 Act defines a UIT as an investment company that is organized under a trust indenture or similar instrument, that does not have a board of directors, and that issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities. 15 U.S.C. 80a–4(2). Section 5(a)(1) of the 1940 Act defines an open-end company as an investment company that is a management company which offers or has outstanding any redeemable security of which it is an issuer. 15 U.S.C. 80a–5(a)(1).

[16] The NAV of a share of an investment company is equal to the value of the investment company's total assets, minus liabilities, divided by the number of outstanding shares.

[17] The SEC's Division of Investment Management indicated that it would not recommend enforcement action if the HOLDRS Trust did not register as an investment company under the 1940 Act. See letter from Veena K. Jain, Staff Attorney, Division of Investment Management, SEC, to Merrill Lynch, Pierce, Fenner & Smith Incorporated, dated September 3, 1999.

[18] For example, beneficial owners have the right to instruct the trustee to vote the deposited securities, to receive reports, proxies and other information distributed by the issuers of the deposited securities to their security holders, and to receive dividends and other distributions if any are declared and paid by the issuers of the deposited securities to the trustee.

[19] Section 5(a)(2) of the 1940 Act defines a ''closed-end company'' as ''any management company other than an open-end company.'' Section 5(a)(1) of the 1940 Act defines an ''open-end company'' as ''a management company which is offering for sale or has outstanding any redeemable security for which it is the issuer.'' 15 U.S.C. 80a–5(a)(1) and (2).

may purchase and sell Closed-End Fund shares in secondary market transactions only. A registered investment adviser manages the assets of a Closed-End Fund consistent with the fund's objectives and policies, and a Closed-End Fund may invest in a variety of financial instruments. In addition to funds comprised of domestic securities, Closed-End Funds include funds that invest in securities of issuers located in a particular foreign country, a particular geographic region, or throughout the world. Shares of Closed-End Funds (''Closed-End Funds Shares'') are listed and traded on national securities exchanges.

Discussion

Section 6(h)(4) of the Exchange Act [20] and section 2(a)(1)(D)(v)(I) of the CEA [21] provide that the Commissions, by rule, regulation, or order, may jointly modify the listing standards requirement specified in sections 6(h)(3)(D) of the Exchange Act, and the criterion specified in sections 2(a)(1)(D)(i)(III) of the CEA to the extent the modification fosters the development of fair and orderly markets in security futures products, is necessary or appropriate in the public interest, and is consistent with the protection of investors. For the reasons discussed below, the Commissions believe that the joint modification of the requirement specified in Section 6(h)(3)(D) of the Exchange Act and the criterion specified in Section 2(a)(1)(D)(i)(III) of the CEA to permit an ETF Share, TIR, or Closed-End Fund Share to underlie a security future will foster the development of fair and orderly markets in security futures products, is necessary or appropriate in the public interest, and is consistent with the protection of investors.

Because ETF Shares, TIRs, and Closed-End Fund Shares are registered under section 12 of the Exchange Act, an investor effecting a transaction in ETF Shares, TIRs, or Closed-End Fund Shares, or futures thereon, would have publicly available information about the ETF, TIR, or Closed-End Fund prior to making an investment decision. In addition, the listing and trading of security futures based on ETF Shares, TIRs, and Closed-End Fund Shares will make additional products available to market participants. The Commissions note that the combined assets of ETFs and Closed-End Funds, respectively, are significant and that futures on ETF Shares and Closed-End Fund Shares will provide investors with additional means to hedge positions in these products.[22] In addition, the conditions imposed by the Commissions, which are set forth below, will help to ensure that only liquid, widely-held ETF Shares, TIRs, and Closed-End Fund Shares will be eligible to underlie security futures contracts, and that therefore the futures will not be readily susceptible to manipulation. Therefore, the Commissions believe that it would foster the development of fair and orderly markets in security futures products, would be necessary or appropriate in the public interest, and would be consistent with the protection of investors to modify by joint order the listing standards requirements specified in subparagraph (D) of Exchange Act Section 6(h)(3) and subclause (III) of Section 2(a)(1)(D)(i) of the CEA, to permit, in certain specified circumstances, a national securities exchange, national securities association, designated contract market, or registered DTEF to list and trade security futures products based on an ETF Share, TIR, or Closed-End Fund Share.[23]

For these reasons, the Commissions by order are jointly modifying the requirement specified in section 6(h)(3)(D) of the Exchange Act and the criterion specified in section 2(a)(1)(D)(i)(III) of the CEA to permit an ETF Share, TIR, or Closed-End Fund Share to underlie a security future, provided that:

(1) The underlying ETF Shares, TIRs, or Closed-End Fund Shares are registered under Section 12 of the Exchange Act, and are listed and traded on a national securities exchange or through the facilities of a national securities association and reported as national market system securities as set forth in Rule 11Aa3–1 under the Exchange Act;[24]

(2) There are a minimum of 7,000,000 of such ETF Shares, TIRs, or Closed-End Fund Shares that are owned by persons other than those required to report their security holdings under Section 16(a) of the Exchange Act;

(3) Total trading volume in the ETF Shares, TIRs, or Closed-End Fund Shares has been at least 2,400,000 shares in the preceding 12 months;

(4) The market price per share of the ETF or Closed-End Fund, or per TIR, has been at least $7.50 for the majority of business days during the three calendar months preceding the date the national securities exchange, national securities association, designated contract market, or registered DTEF lists the overlying future, as measured by the lowest closing price reported in any market in which the ETF Shares, TIRs, or Closed-End Fund Shares traded on each of the subject days; and

(5) The issuer of the ETF, TIR, or Closed-End Fund is in compliance with all applicable requirements of the Exchange Act.

Accordingly,

It is ordered, pursuant to section 6(h)(4) of the Exchange Act and section 2(a)(1)(D)(v)(I) of the CEA, that the requirement specified in section 6(h)(3)(D) of the Exchange Act and the criterion specified in Section 2(a)(1)(D)(i)(III) are modified, subject to the conditions set forth above, *provided however,* this order does not affect the CFTC's exclusive jurisdiction under section 2(a)(1)(C) of the CEA over any futures contract based on an index that is not a ''narrow-based security index,'' as defined in section 3(a)(55) of the Exchange Act and section 1a(25) of the CEA. Accordingly, nothing in this order shall affect or limit the exclusive authority and jurisdiction of the CFTC with respect to any futures contract, now or in the future, including the CFTC's authority to approve any futures contract that is based upon an index that is not a ''narrow-based security index,'' including an index that is not a ''narrow-based security index'' that underlies an ETF, TIR or Closed-End Fund on which approved security futures are based.

By the Commodity Futures Trading Commission.

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[20] 15 U.S.C. 78f(h)(4).

[21] 7 U.S.C. 2(a)(1)(D)(v)(I).

[22] For example, as of January 2002, the combined assets of the 102 U.S. ETFs amounted to $82 billion. *See* Investment Company Institute, ''Exchange-Traded Fund Assets, January 2002'' at *http://www.ici.org/facts—figures/.* As of December 2000, the total assets invested in closed-end funds amounted to $134.5 billion. *See* ''Closed-End Fund Assets, Year-End 2000'' at *http://www.ici.org/facts—figures/.*

[23] A national securities exchange, national securities association, designated contract market or registered DTEF that relies on this order to list and trade a security futures product based on an ETF Share, TIR, or Closed-End Fund Share must comply with the other requirements and criteria specified in the Exchange Act and the CEA, respectively, and the listing standards requirements of the national securities exchange or national securities association.

[24] Accordingly, this order does not include certain closed-end funds known as ''interval funds'' that operate pursuant to Rule 23c–3 under the 1940 Act and are not listed on a national securities exchange or traded through the facilities of Nasdaq. In addition, this order does not include closed-end funds with a quarterly tender offer feature that are not listed on a national securities exchange or traded through the facilities of Nasdaq.

Dated: June 19, 2002.

Jean A. Webb,

Secretary,

By the Securities and Exchange Commission.

Dated: June 19, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–15919 Filed 6–24–02; 8:45 am]

BILLING CODE 8010–01–P; 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Board Closed Meeting

AGENCY: Defense Intelligence Agency, Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Advisory Board has been scheduled as follows:

DATES: June 25 & 26 (8:30 a.m. to 5 p.m.).

ADDRESSES: The Defense Intelligence Agency, 200 MacDill Blvd., Washington, DC 20340.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria J. Prescott, Director/Executive Secretary, DIA Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552(c)(l), Title 5 of the U.S. Code, and therefore will be closed to the public. The Board will receive briefings and discuss several current critical intelligence issues in order to advise the Director, DIA.

Dated: June 19, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–15953 Filed 6–24–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to delete a system of records.

SUMMARY: The Department of the Army is deleting a system of records notice from its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 25, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 18, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0210–7a TAPC

SYSTEM NAME:

Vendor Misconduct/Fraud/Mismanagement Information Exchange Program (May 11, 1998, 63 FR 25840).

Reason: The Department of the Army no longer collects and maintains this type of record. Records have been destroyed.

[FR Doc. 02–15914 Filed 6–24–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The amendment clarifies that information maintained in this system of records has been used to provide notification to as the emergency contact in the event of an emergency or death of the employee.

DATES: This proposed action would be effective without further notice on July 25, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

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The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 18, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0690–200 TAPC

SYSTEM NAME:

Department of the Army Civilian Personnel Systems (February 22, 1993, 58 FR 10002).

CHANGES:

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CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Current and former Army civilian employees (appropriated and in some instances, non-appropriated funded employees), their dependents, foreign nationals, and military personnel who participate in the incentive awards and training programs.'

CATEGORIES OF RECORDS IN THE SYSTEM:

After 'home address' add 'home telephone number or alternate number,