

standards for electronic devices. Choosing this option, however, would not provide up-to-date standards for electronic devices as new technology emerges, nor would it provide consistency with the standards imposed by the States' departments of weights and measures.

#### Effects on Regulated Entities

This proposed rule would make it clear that swine contractors as well as other regulated entities must operate, maintain, and test scales according to the requirements of the 2009 edition of NIST Handbook 44 and to use scales in good condition and equipped with a printing device to record weight values. Since regulated entities are required under State law to comply with NIST Handbook 44, there would be no new costs or burden to comply.

#### Executive Order 12866 and Regulatory Flexibility Act

The Office of Management and Budget (OMB) has designated this rule as not significant for the purposes of Executive Order 12866.

We have determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). While this proposed rule would affect swine contractors, most such entities do not meet the definition for small entities in the Small Business Act (13 CFR 121.201). Therefore, we are not providing an initial regulatory flexibility analysis.

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. These actions are not intended to have retroactive effect. This rule will not pre-empt state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

#### Paperwork Reduction Act

This proposed rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). It does not involve collection of new or additional information by the federal government.

#### E-Government Act Compliance

GIPSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide

increased opportunities for citizen access to Government information and services, and for other purposes.

#### List of Subjects in 9 CFR Part 201

Swine, Hogs, Livestock, Measurement standards.

For the reasons set forth in the preamble, we propose to amend 9 CFR part 201 to read as follows:

#### PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

1. Revise the authority citation for part 201 to read as follows:

**Authority:** 7 U.S.C. 181–229c.

2. In § 201.71, paragraphs (a), (b) and (d) are revised to read as follows:

#### § 201.71 Scales; accurate weights, repairs, adjustments or replacements after inspection.

(a) All scales used by stockyard owners, swine contractors, market agencies, dealers, packers, and live poultry dealers to weigh livestock, livestock carcasses, live poultry, or feed for the purposes of purchase, sale, acquisition, payment, or settlement shall be installed, maintained, and operated to ensure accurate weights. Such scales shall meet applicable requirements contained in the General Code, Scales Code, and Weights Code of the 2009 edition of the National Institute of Standards and Technology (NIST) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," which is hereby incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register on [INSERT EFFECTIVE DATE OF FINAL RULE], in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**. The handbook is for sale by the National Conference of Weights & Measures (NCWM), 1135 M Street, Suite 110, Lincoln, Nebraska 68508. Information on these materials may be obtained from NCWM by calling 402-434-4880, by e-mailing [nfo@ncwm.net](mailto:nfo@ncwm.net), or on the Internet at <http://www.nist.gov/owm>.

(b) All scales used by stockyard owners, swine contractors, market agencies, dealers, packers, and live poultry dealers to weigh livestock, livestock carcasses, live poultry, or feed for the purpose of purchase, sale, acquisition, payment, or settlement of livestock or live poultry and all scales used for the purchase, sale acquisition,

payment, or settlement of livestock on a carcass weight basis shall be equipped with a printing device which shall record weight values on a scale ticket or other document.

\* \* \* \* \*

(d) No scales shall be operated or used by any stockyard owners, swine contractors, market agencies, dealers, packers, or live poultry dealers to weigh livestock, livestock carcasses, live poultry, or feed for the purposes of purchase, sale, acquisition, payment, or settlement of livestock, livestock carcasses or live poultry unless it has been found upon test and inspection, as specified in § 201.72, to be in a condition to give accurate weight. If a scale is inspected or tested and adjustments or replacements are made to a scale, it shall not be used until it has been inspected and tested and determined to meet all accuracy requirements specified in the regulations in this section.

**Alan R. Christian,**

*Acting Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. E9–11159 Filed 5–14–09; 8:45 am]

**BILLING CODE 3410-KD-P**

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## FEDERAL HOUSING FINANCE BOARD

### 12 CFR Part 913

#### FEDERAL HOUSING FINANCE AGENCY

### 12 CFR Part 1204

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Office of Federal Housing Enterprise Oversight

### 12 CFR Part 1702

**RIN 2590-AA07**

#### Privacy Act Implementation

**AGENCIES:** Federal Housing Finance Board; Federal Housing Finance Agency; Office of Federal Housing Enterprise Oversight.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is proposing a regulation providing the procedures and guidelines under which it will implement the Privacy Act of 1974, as amended. The proposed regulation describes the policies and procedures whereby individuals may obtain notification of whether an FHFA system

of records contains information about the individual and, if so, how to access or amend a record under the Privacy Act. Upon adoption of this regulation the Privacy Act regulations of the Federal Housing Finance Board and the Office of Federal Housing Enterprise Oversight, will be removed.

**DATES:** Comments regarding this proposed rulemaking must be received in writing on or before June 15, 2009. For additional information, see

**SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** You may submit your comments on the proposed rulemaking, identified by "Privacy Act RIN 2590-AA07," by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [RegComments@fhfa.gov](mailto:RegComments@fhfa.gov). Please include "Privacy Act RIN-2590-AA07" in the subject line of the message.

- *Mail:* Any U.S. Mail service or United Parcel Service, Federal Express, or other commercial delivery service, addressed to: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA07, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

- *Hand Delivery/Courier to:* Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA07, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

**FOR FURTHER INFORMATION CONTACT:**

David A. Lee, Senior Agency Official for Privacy, telephone (202) 408-2514, (not a toll free number), Federal Housing Finance Agency, 1625 Eye Street, NW., Washington, DC 20006. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Comments**

FHFA invites comments on all aspects of the proposed Privacy Act Implementation regulation and will take all comments into consideration before issuing a final regulation.

Copies of all comments received will be posted without change on the FHFA Internet Web site, <http://www.fhfa.gov>, and will include any personal information provided. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, Fourth Floor,

1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 414-3751.

**II. Background**

*A. Privacy Act*

The Privacy Act of 1974 serves to balance the Federal Government's need to maintain information about individuals while protecting individuals against unwarranted invasions of privacy stemming from Federal agencies' collection, maintenance, use, security, and disclosure of personal information about them that is contained in systems of records.

The Privacy Act requires each Federal agency to publish rules describing its Privacy Act procedures and any system of records it exempts from provisions of the Privacy Act, including the reasons for the exemption.

Pursuant to the Privacy Act, FHFA will inform the public of each system of records it maintains by separately publishing notices of each system of records in the **Federal Register** and also on the FHFA Web site at <http://www.fhfa.gov>. The notices will describe the standards for FHFA employees, regarding collection, use, maintenance, or disclosure of records in the system and identify whether information in the system is exempt from provisions of the Privacy Act. The system manager responsible for the system will also be identified and any other contact information will be included. Moreover, notices will inform individuals with detailed information regarding the exercise of their rights, such as what procedures to take to determine whether a system contains a record pertaining to them, how to access those records pertaining to them, how to seek to amend or correct information in a record about them, or, how to contest adverse determinations with respect to such a record.

*B. Establishment of the Federal Housing Finance Agency*

The Housing and Economic Recovery Act of 2008 (HERA), Public Law No. 110-289, 122 Stat. 2654, amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Act) (12 U.S.C. 4501 *et seq.*) and the Federal Home Loan Bank Act (12 U.S.C. 1421-1449) to establish FHFA as an independent agency of the Federal Government<sup>1</sup> to ensure that the Federal National Mortgage Association, the Federal Home Loan Mortgage

Corporation (collectively, the Enterprises), and the Federal Home Loan Banks (Banks) (collectively, the regulated entities) are capitalized adequately; foster liquid, efficient, competitive and resilient national housing finance markets; operate in a safe and sound manner; comply with the Act and rules, regulations, guidelines and orders issued under the Act, and the respective authorizing statutes of the regulated entities; and carry out their missions through activities authorized and consistent with the Act and their authorizing statutes; and, that the activities and operations of the regulated entities are consistent with the public interest.

The Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB) will be abolished one year after enactment of HERA. However, the regulated entities continue to operate under regulations promulgated by OFHEO and FHFB; and such regulations are enforceable by the Director of FHFA until such regulations are modified, terminated, set aside, or superseded by the Director.<sup>2</sup>

Section 1201 of HERA requires the Director, prior to promulgating regulations relating to the Banks, to consider the differences between the Banks and the Enterprises.<sup>3</sup> The Director considered the differences between the Banks and the Enterprises as they relate to the above factors and determined that pending the publication of consolidated Systems of Records Notices, FHFA will maintain the Systems of Records established by FHFB and OFHEO, respectively. The Director requests comments from the public about whether differences related to these factors should result in a revision to the proposed rule as they relate to the Banks.

**III. Section-by-Section Analysis**

*Section 1204.1 Why did FHFA issue this part?*

This proposed section describes the purpose of the proposed regulation, which is to implement the Privacy Act, and explains FHFA general policies and procedures for individuals requesting access to records, amending or correcting records, and requesting an accounting of disclosures of records.

<sup>2</sup> See §§ 1302 and 1312 of the Act (12 U.S.C. 4511 and 4512), as amended.

<sup>3</sup> See § 1313 of the Act (12 U.S.C. 4513), as amended.

<sup>1</sup> See Division A, titled the "Federal Housing Finance Regulatory Reform Act of 2008," Title I, § 1101 of HERA.

*Section 1204.2 What do the terms in this part mean?*

This proposed section sets forth definitions of some terms in this part.

*Section 1204.3 How do I make a Privacy Act request?*

This proposed section explains what an individual must do to submit a valid request to FHFA for access to records or information to amend or correct records or for an accounting of disclosures of records. It also describes the information an individual is to provide, allowing FHFA to identify the records sought and determine whether the request can be granted.

*Section 1204.4 How will FHFA respond to my Privacy Act request?*

This section, as proposed, describes the period of time within which FHFA will respond to requests. It also explains that FHFA will grant or deny requests in writing, provide reasons if a request is denied in whole or in part, and explain the right of appeal.

*Section 1204.5 What if I am dissatisfied with the FHFA response to my Privacy Act request?*

This proposed section describes when and how an individual may appeal FHFA determination on a Privacy Act request and how and within what period of time FHFA will make determinations on an appeal.

*Section 1204.6 What does it cost to get records or information under the Privacy Act?*

This section, as proposed, explains that requesters are expected to pay fees for the duplication of records that they requested.

*Section 1204.7 Are there any exemptions from the Privacy Act?*

This section, as proposed, explains that some exemptions from the Privacy Act exist, how they are made effective, what the effect of an exemption is, and how to identify if an exemption applies.

*Section 1204.8 How are records secured?*

This proposed section explains how FHFA generally protects records under the Privacy Act.

*Section 1204.9 Does FHFA collect and use Social Security numbers?*

This proposed section explains that FHFA collects Social Security numbers only when authorized and describes the conditions under which they may be collected.

*Section 1204.10 What are FHFA employee responsibilities under the Privacy Act?*

This proposed section lists the responsibilities of FHFA employees under the Privacy Act.

**Regulatory Impacts**

*Paperwork Reduction Act*

The proposed regulation does not contain any information collection requirement that requires the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed regulation under the Regulatory Flexibility Act. The General Counsel of FHFA certifies that the proposed regulation is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable to the internal operations and legal obligations of FHFA.

**List of Subjects**

*12 CFR Part 913*

Administrative practice and procedure, Archives and records, Freedom of information, Privacy.

*12 CFR Part 1204*

Accounting, Amendment, Appeals, Correction, Disclosure, Exemptions, Fees, Records, Requests, Privacy Act, Social Security numbers.

*12 CFR Part 1702*

Privacy.

**Authority and Issuance**

Accordingly, for the reasons stated in the preamble, under 12 U.S.C. 4526, FHFA proposes to amend Title 12 CFR Chapters IX, XII and XVII as follows:

**CHAPTER IX—FEDERAL HOUSING FINANCE BOARD**

**PART 913—[REMOVED]**

1. Remove part 913.

**CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY**

2. Add part 1204 to subchapter A.

**PART 1204—PRIVACY ACT IMPLEMENTATION**

**Sec.**

1204.1 Why did FHFA issue this part?

1204.2 What do the terms in this part mean?

1204.3 How do I Make a Privacy Act request?

1204.4 How will FHFA respond to my Privacy Act request?

1204.5 What if I am dissatisfied with the FHFA response to my Privacy Act request?

1204.6 What does it cost to get records under the Privacy Act?

1204.7 Are there any exemptions from the Privacy Act?

1204.8 How are records secured?

1204.9 Does FHFA collect and use Social Security numbers?

1204.10 What are FHFA employee responsibilities under the Privacy Act?

**Authority:** 5 U.S.C. 552a.

**§ 1204.1 Why did FHFA issue this part?**

FHFA issued this part to:

(a) Implement the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act), a Federal law that helps protect private information about individuals that Federal agencies collect or maintain. You should read this part together with the Privacy Act, which provides additional information about records maintained on individuals;

(b) Establish rules that apply to all FHFA maintained systems of records retrieved by an individual's name or other personal identifier;

(c) Describe procedures through which you may request access to records, request amendment or correction of those records, and request an accounting of disclosures of those records by FHFA;

(d) Inform you, that when it is appropriate to do so, FHFA automatically processes a Privacy Act request for access to records under both the Privacy Act and the FOIA, following the rules contained in this part and part 1202 of this subchapter so you will receive the maximum amount of information available to you by law; and

(e) Notify you that this regulation does not entitle you to any service or to the disclosure of any record to which you are not entitled under the Privacy Act. It also does not, and may not be relied upon to create any substantive or procedural right or benefit enforceable against FHFA.

(e) Notify you that this regulation does not entitle you to any service or to the disclosure of any record to which you are not entitled under the Privacy Act. It also does not, and may not be relied upon to create any substantive or procedural right or benefit enforceable against FHFA.

**§ 1204.2 What do the terms in this part mean?**

The following definitions apply to the terms used in this part—

*Access* means making a record available to a subject individual.

*Amendment* means any correction of, addition to, or deletion from a record.

*Court* means any entity conducting a legal proceeding.

*FHFA* means the Federal Housing Finance Agency.

*FHFB* means the Federal Housing Finance Board.

*FOIA* means the Freedom of Information Act, as amended (5 U.S.C. 552).

*Individual* means a natural person who is either a citizen of the United States of America or an alien lawfully admitted for permanent residence.

*Maintain* includes collect, use, disseminate, or control.

*OFHEO* means the Office of Federal Housing Enterprise Oversight.

*Privacy Act* means the Privacy Act of 1974, as amended (5 U.S.C. 552a).

*Privacy Act Appeals Officer* means the FHFA employee who has been delegated the authority to determine Privacy Act appeals.

*Privacy Act Officer* means the FHFA employee who has primary responsibility for privacy and data protection policy and is authorized to determine Privacy Act requests.

*Record* means any item, collection, or grouping of information about an individual that FHFA maintains within a system of records, including, but not limited to, the individual's name, an identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or photograph.

*Routine use* means the purposes for which records and information contained in a system of records may be disclosed by FHFA without the consent of the subject of the record. Routine uses for records are identified in each System of Records Notice. Routine use does not include disclosure that subsection (b) of the Privacy Act (5 U.S.C. 552a(b)) otherwise permits.

*Senior Agency Official for Privacy* means the FHFA employee delegated the authority and responsibility to oversee and supervise the FHFA privacy program and implementation of the Privacy Act.

*System of records* means a group of records FHFA maintains or controls from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Single records or groups of records that are not retrieved by a personal identifier are not part of a system of records.

#### **§ 1204.3 How do I make a Privacy Act request?**

(a) *What is a valid request?* In general, a Privacy Act request can be made on your own behalf for records or information about you. You can make a Privacy Act request on behalf of another individual as the parent or guardian of a minor or as the guardian of someone determined by a court to be incompetent. You also may request access to another individual's record or information if you have that individual's written consent, unless other conditions of disclosure apply (5 U.S.C. 552a(b)(1) through (12)).

(b) *How and where do I make a request?* Your request must be in writing. You may appear in person to submit your written request to the Privacy Act Officer, or send your written request to the Privacy Act Officer by electronic mail, regular mail, or fax. The electronic mail address is: [privacy@fhfa.gov](mailto:privacy@fhfa.gov). The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 1625 Eye Street, NW., Washington, DC 20006. The fax number is: (202) 408-2580. For the quickest possible handling, you should mark your electronic mail, letter, or fax and the subject line, envelope, or fax cover sheet "Privacy Act Request."

(c) *What must the request include?* You must describe the record that you want in enough detail to enable the Privacy Act Officer to locate the system of records containing it with a reasonable amount of effort. Your request should include specific information about each record sought, such as the time period in which you believe it was compiled, the name or identifying number of each system of records in which you believe it is kept, and the date, title or name, author, recipient, and subject matter of the record. As a general rule, the more specific you are about the record that you want, the more likely FHFA will be able to locate it in response to your request.

(d) *How do I request amendment or correction of a record?* If you are requesting an amendment or correction of any FHFA record, you should identify each particular record in question and the systems of records in which the record is located, describe the amendment or correction that you want, and state why you believe that the record is not accurate, relevant, timely, or complete. You may submit any documentation that you think would be helpful, including an annotated copy of the record.

(e) *How do I request for an accounting of disclosures?* If you are requesting an accounting of disclosures by FHFA of a

record to another person, organization, or Federal agency, you should identify each particular record in question. An accounting generally includes the date, nature, and purpose of each disclosure, as well as the name and address of the person, organization, or Federal agency to which the disclosure was made.

(f) *Must I verify my identity?* When making requests under the Privacy Act, your request must verify your identity to protect your privacy or the privacy of the individual on whose behalf you are acting. If you make a Privacy Act request and you do not follow these identity verification procedures, FHFA cannot process your request.

(1) *How do I verify my identity?* To verify your identity, you must state your full name, current address, and date and place of birth. In order to help identify and locate the records you request, you also may, at your option, include your Social Security number. If you make your request in person and your identity is not known to the Privacy Act Officer, you must provide either two forms of identification with photographs, or one form of identification with a photograph and a properly authenticated birth certificate. If you make your request by mail, your signature either must be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. You may fulfill this requirement by having your signature on your request letter witnessed by a notary or by including the following statement just before the signature on your request letter: "I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]."

(2) *How do I verify parentage or guardianship?* If you make a Privacy Act request as the parent or guardian of a minor or as the guardian of someone determined by a court to be incompetent, with respect to records or information about that individual, you must establish:

(i) The identity of the individual who is the subject of the record, by stating the individual's name, current address, date and place of birth, and, at your option, the Social Security number of the individual;

(ii) Your own identity, as required in paragraph (f)(1) of this section;

(iii) That you are the parent or guardian of the individual, which you may prove by providing a properly authenticated copy of the individual's birth certificate showing your parentage or a properly authenticated court order establishing your guardianship; and

(iv) That you are acting on behalf of the individual in making the request.

#### **§ 1204.4 How will FHFA respond to my Privacy Act request?**

(a) *How will FHFA locate the requested records?* FHFA will search to determine if requested records exist in the systems of records it owns or controls. You can find descriptions of FHFA systems of records on its Web site at <http://www.fhfa.gov>, or by linking to <http://www.ofheo.gov> and <http://www.fhfb.gov>, as appropriate. A description of the systems of records also is available in the "Privacy Act Compilation" published by the Office of the Federal Register of the National Archives and Records Administration. You can access the "Privacy Act Compilation" in most large reference and university libraries or electronically at the Government Printing Office Web site at: <http://www.gpoaccess.gov/privacyact/index.html>. You also can request a copy of FHFA systems of records from the Privacy Act Officer.

(b) *How long does FHFA have to respond?* The Privacy Act Officer generally will respond to your request in writing within 20 business days after receiving it, if it meets the requirements of § 1204.3 of this part. FHFA may extend the response time in unusual circumstances, such as when consultation is needed with another Federal agency (if that agency is subject to the Privacy Act) about a record or to retrieve a record shipped offsite for storage. If you submit your written request in person, the Privacy Act Officer may disclose records or information to you directly with a written record made of the grant of the request. If you are to be accompanied by another person when accessing your record or any information pertaining to you, FHFA may require your written authorization before permitting access or discussing the record in the presence of the other person.

(c) *What will FHFA response include?* The written response will include a determination to grant or deny your request in whole or in part, a brief explanation of the reasons for the determination, and the amount of the fee charged, if any, under § 1204.6 of this part. If you are granted a request to access a record, FHFA will make the record available to you. If you are granted a request to amend or correct a record, the response will describe any amendments or corrections made and advise you of your right to obtain a copy of the amended or corrected record.

(d) *What is an adverse determination?* An adverse determination is a determination on a Privacy Act request that:

(1) Withholds any requested record in whole or in part;

(2) Denies a request for an amendment or correction of a record in whole or in part;

(3) Declines to provide a requested accounting of disclosures;

(4) Advises that a requested record does not exist or cannot be located;

(5) Finds what has been requested is not a record subject to the Privacy Act; or

(6) Addresses any disputed fee matter.

(e) *What will be stated in a response that includes an adverse determination?* If the Privacy Act Officer makes an adverse determination with respect to your request, the written response under this section will state that the Privacy Act Officer is the person responsible for the adverse determination, that the adverse determination is not a final action of FHFA, and that you may appeal the adverse determination under § 1204.5 of this part.

#### **§ 1204.5 What if I am dissatisfied with the FHFA response to my Privacy Act request?**

(a) *May I appeal the response?* You may appeal any adverse determination made by the Privacy Act Officer in response to your Privacy Act request. If you wish to seek review by a court of any adverse determination or denial of a request, you first must appeal it under this section.

(b) *How do I appeal the response?* (1) You may appeal by submitting a written appeal stating the reasons you believe the adverse determination should be overturned. FHFA must receive your written appeal within 30 business days of the date of the Privacy Act Officer's determination under § 1204.4 of this part. Your written appeal may include as much or as little related information as you wish, as long as it clearly identifies the determination (including the request number, if known) that you are appealing.

(2) You should transmit your written appeal addressed to the Privacy Act Appeals Officer by electronic mail, regular mail, or fax. The electronic mail address is: [privacy@fhfa.gov](mailto:privacy@fhfa.gov). The regular mail address is: Privacy Act Appeals Officer, Federal Housing Finance Agency, 1700 G Street, NW., Fourth Floor, Washington, DC 20552. The fax number is: (202) 414-6504. For the quickest possible handling, you should mark your electronic mail, letter, or fax and the subject line, envelope, or fax cover sheet "Privacy Act Appeal." FHFA ordinarily will not act on an appeal if the Privacy Act request becomes a matter of Privacy Act litigation.

(c) *Who has the authority to grant or deny appeals?* The Privacy Act Appeals Officer is authorized to act on behalf of

the Director on all appeals under this section.

(d) *When will FHFA respond to my appeal?* FHFA generally will respond to you in writing within 30 business days of receipt of an appeal that meets the requirements of paragraph (b) of this section, unless for good cause shown, the Director extends the response time.

(e) *What will the FHFA response include?* The written response will include the determination of the Privacy Act Appeals Officer; whether to grant or deny your appeal in whole or in part, a brief explanation of the reasons for the determination, and information about the Privacy Act provisions for court review of the determination.

(1) If your appeal concerns a request for access to records or information and the appeal determination grants your access, the records or information, if any, will be made available to you.

(2)(i) If your appeal concerns an amendment or correction of a record and the appeal determination grants your request for an amendment or correction, the response will describe any amendment or correction made to the record and advise you of your right to obtain a copy of the amended or corrected record under this part. FHFA will notify all persons, organizations, or Federal agencies to which it previously disclosed the record, if an accounting of that disclosure was made, that the record has been amended or corrected. Whenever the record is subsequently disclosed, the record will be disclosed as amended or corrected.

(ii) If the response to your appeal denies your request for an amendment or correction to a record, the response will advise you of your right to file a Statement of Disagreement under paragraph (f) of this section.

(f) *What is a Statement of Disagreement?* (1) A Statement of Disagreement is a concise written statement in which you clearly identify each part of any record that you dispute and explain your reason(s) for disagreeing with the Privacy Act Appeals Officer's denial in whole or in part of your appeal requesting amendment or correction. Your Statement of Disagreement must be received by the Privacy Act Officer within 30 business days of the Privacy Act Appeals Officer's denial in whole or in part of your appeal concerning amendment or correction of a record. FHFA will place your Statement of Disagreement in the system(s) of records in which the disputed record is maintained. FHFA also may append a concise statement of its reason(s) for denying the request for an amendment or correction of the record.

(2) FHFA will notify all persons, organizations, or Federal agencies to which it previously disclosed the disputed record, if an accounting of that disclosure was made, that the record is disputed and provide your Statement of Disagreement and the FHFA concise statement, if any. Whenever the disputed record is subsequently disclosed, a copy of your Statement of Disagreement and the FHFA concise statement, if any, will also be disclosed.

**§ 1204.6 What does it cost to get records under the Privacy Act?**

(a) *Must I agree to pay fees?* Your Privacy Act request is your agreement to pay all applicable fees, unless you specify a limit on the amount of fees you agree to pay. FHFA will not exceed the specified limit without your written agreement.

(b) *How does FHFA calculate fees?* FHFA will charge a fee for duplication of a record under the Privacy Act in the same way it charges for duplication of records under FOIA (5 U.S.C. 552) in 12 CFR 1202.11. There are no fees to search for or review records.

**§ 1204.7 Are there any exemptions from the Privacy Act?**

(a) *What is a Privacy Act exemption?* The Privacy Act allows the Director to exempt records or information in a system of records from some of the Privacy Act requirements, if the Director determines that the exemption is necessary.

(b) *How do I know if the records or information I want are exempt?* (1) Each notice of a system of records will advise you if the Director has determined records or information in records are exempt from Privacy Act requirements. If the Director has claimed an exemption for a system of records, the System of Records Notice will identify the exemption and the provisions of the Privacy Act from which the system is exempt. (2) Until superseded by FHFA Systems of Records, the following OFHEO and FHFB Systems of Records are, under 5 U.S.C. 552a(k)(2) or (k)(5), exempt from the Privacy Act requirements of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f):

(i) OFHEO-11 Litigation and Enforcement System;

(ii) FHFB-5 Agency Personnel Investigative Records; and

(iii) FHFB-6 Office of Inspector General Audit and Investigative Records.

**§ 1204.8 How are records secured?**

(a) *What controls must FHFA have in place?* Each FHFA office must establish

administrative and physical controls to prevent unauthorized access to its systems of records, unauthorized or inadvertent disclosure of records, and physical damage to or destruction of records. The stringency of these controls should correspond to the sensitivity of the records that the controls protect. At a minimum, the administrative and physical controls must ensure that:

(1) Records are protected from public view;

(2) The area in which records are kept is supervised during business hours to prevent unauthorized persons from having access to them;

(3) Records are inaccessible to unauthorized persons outside of business hours; and

(4) Records are not disclosed to unauthorized persons or under unauthorized circumstances in either oral or written form.

(b) *Is access to records restricted?* Access to records is restricted only to authorized employees who require access in order to perform their official duties.

**§ 1204.9 Does FHFA collect and use Social Security numbers?**

FHFA collects Social Security numbers only when it is necessary and authorized. At least annually, the Privacy Act Officer or the Senior Agency Official for Privacy will inform employees who are authorized to collect information that:

(a) Individuals may not be denied any right, benefit, or privilege as a result of refusing to provide their Social Security numbers, unless the collection is authorized either by a statute or by a regulation issued prior to 1975; and

(b) They must inform individuals who are asked to provide their Social Security numbers:

(1) If providing a Social Security number is mandatory or voluntary;

(2) If any statutory or regulatory authority authorizes collection of a Social Security number; and

(3) The uses that will be made of the Social Security number.

**§ 1204.10 What are FHFA employee responsibilities under the Privacy Act?**

At least annually, the Privacy Act Officer or the Senior Agency Official for Privacy will inform employees about the provisions of the Privacy Act, including the Privacy Act's civil liability and criminal penalty provisions. Unless otherwise permitted by law, an authorized FHFA employee shall:

(a) Collect from individuals only information that is relevant and necessary to discharge FHFA responsibilities;

(b) Collect information about an individual directly from that individual whenever practicable;

(c) Inform each individual from whom information is collected of:

(1) The legal authority to collect the information and whether providing it is mandatory or voluntary;

(2) The principal purpose for which FHFA intends to use the information;

(3) The routine uses FHFA may make of the information; and

(4) The effects on the individual, if any, of not providing the information.

(d) Ensure that the employee's office does not maintain a system of records without public notice and notify appropriate officials of the existence or development of any system of records that is not the subject of a current or planned public notice.

(e) Maintain all records that are used in making any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in the determination.

(f) Except for disclosures made under the FOIA, make reasonable efforts, prior to disseminating any record about an individual, to ensure that the record is accurate, relevant, timely, and complete.

(g) When required by the Privacy Act, maintain an accounting in the specified form of all disclosures of records by FHFA to persons, organizations, or Federal agencies.

(h) Maintain and use records with care to prevent the unauthorized or inadvertent disclosure of a record to anyone.

(i) Notify the appropriate official of any record that contains information that the Privacy Act does not permit FHFA to maintain.

**CHAPTER XVII—OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**PART 1702—[REMOVED]**

3. Remove part 1702.

Dated: May 8, 2009.

**James B. Lockhart III,**

*Director, Federal Housing Finance Agency.*

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