

# OBELISK TECH SYSTEMS INC., JAMES POOLE

## Proposal and Comment Information

**Title:** BGFRS-14 General File of Reserve Bank and Branch Directors, SORN-202601

**Comment ID:** FR-2026-0003-01-C08

## Submitter Information

**Organization Name:** Obelisk Tech Systems Inc.

**Organization Type:** Company

**Name:** James Poole

**Submitted Date:** 04/11/2026

Submitter: James Hunter Poole, Executive Chairman & CEO, Obelisk Tech Systems Inc. | CAGE 9S0L8 | UEI U34MSJ6A6413 | Thomasville, Georgia | HUBZone-certified | ITAR DS-2032 registrant

Re: Modified System of Records BGFRS-14, 91 FR 12802 (Mar. 17, 2026);

associated OMB Control No. 7100-0328 (CFPB G; ICP-202602);

delegation under 12 CFR Part 265.

Attachment: FRS-2026-1024-0001\_BGFRS-14\_April\_11\_2026\_James\_Poole\_Obelisk.pdf (11 sections, incorporated by reference).

Obelisk submits this comment under 5 U.S.C. § 552a(e)(4) and (e)(11); 5 U.S.C. §§ 553, 555(e), 706; 44 U.S.C. §§ 3506–3507; E-Government Act § 208; OMB Circulars A-108 and A-123 (2026); and 44 U.S.C. chs. 29, 31, 33. Obelisk does not oppose the Board's authority under 12 U.S.C. §§ 248, 302, 485, 521 to maintain director records, but formally challenges the scope and internal-control posture of the modification for the reasons set forth in the attachment.

Specific objections.

- (1) The § 552a(k)(5) exemption is narrowly cabined to records compiled solely for suitability determinations and cannot be invoked across a mixed-use general-file system.
- (2) No Privacy Impact Assessment has been published under E-Government Act § 208 despite new collection on non-employee candidates and their assistants.
- (3) "News and other information databases" is not a source category under A-108 § 6(c) and lacks authentication and chain-of-custody controls.
- (4) The retention standard "may be destroyed when no longer needed" is not a NARA-approved disposition authority and violates the Federal Records Act.
- (5) No A-123 (2026) internal-control matrix linking identified risks to control activities has been published.
- (6) Narrowing the system-specific routine use and invoking § 552a(k)(5) collaterally amends 12 CFR Part 261a access procedures without independent § 553 notice and comment.
- (7) 12 CFR Part 265 delegation authority operates without a publicly accessible registry, qualification standards, or public-audit trails — creating an asymmetry between controlled private actors subject to OMB 7100-0328 and uncontrolled federal delegation authority.
- (8) The notice fails to reconcile cumulative Paperwork Reduction Act burden across BGFRS-14 and ICP-202602 (presently open until May 18, 2026).

Documentation requested on the administrative record: the § 208 PIA; the A-123 (2026) control matrix specific to BGFRS-14; the § 552a(r) advance report to OMB and Congress; identification of any matching programs under § 552a(a)(8); Data Integrity Board review under § 552a(u); the NARA disposition authority for candidate records; cumulative PRA burden reconciliation with OMB 7100-0328; the authentication and chain-of-custody controls for third-party database ingestion; and any Board OIG consultations concerning BGFRS-14 in the prior 36 months.

Obelisk reserves all rights under the APA, Privacy Act, PRA, E-Government Act, Federal Records Act, and Information Quality Act, and reserves the right to file linked comments on ICP-202602.

Failure to respond substantively will constitute reviewable agency action under 5 U.S.C. § 706.

Respectfully submitted,

James Hunter Poole — April 11, 2026

**Title 12 –Banks and Banking**

**Chapter II –Federal Reserve System**

**Subchapter A –Board of Governors of the Federal Reserve System**

▼ <b>Title 12</b>	Banks and Banking	Part / Section
▼ <b>Chapter II</b>	Federal Reserve System	200 – 299
▼ <b>Subchapter A</b>	Board of Governors of the Federal Reserve System	200 – 269b
▼ <b>Part 265</b>	Rules Regarding Delegation of Authority	265.1 – 265.20
▼ <b>Subpart A</b>	General Provisions	265.1 – 265.3
§ 265.1	Authority, purpose, and scope.	
§ 265.2	Delegation of functions generally.	
§ 265.3	Board review of delegated actions.	
▼ <b>Subpart B</b>	Delegations of Authority	265.4 – 265.20
§ 265.4	Functions delegated to Board members or staff within the Division of Board Members.	
§ 265.5	Functions delegated to the Secretary of the Board.	
§ 265.6	Functions delegated to the General Counsel.	
§ 265.7	Functions delegated to the Director of the Division of Supervision and Regulation.	
§ 265.8	Functions delegated to the Director of the Division of Consumer and Community Affairs.	
§ 265.9	Functions delegated to the Director of the Division of International Finance.	
§ 265.10	Functions delegated to the Director of the Division of Monetary Affairs.	
§ 265.11	Functions delegated to the Director of the Division of Reserve Bank Operations and Payment Systems.	
§ 265.12	Functions delegated to the Secretary of the Federal Open Market Committee.	
§ 265.13	Functions delegated to the Director of the Division of Financial Stability.	
§§ 265.14-265.19	<i>[Reserved]</i>	
§ 265.20	Functions delegated to Federal Reserve Banks.	

A report to Congress.

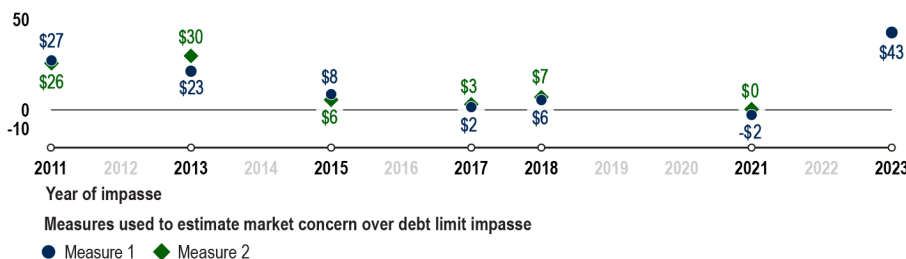
For more information, contact: Michael E. Clements at [clementsm@gao.gov](mailto:clementsm@gao.gov), Michael Hoffman at [hoffmanme@gao.gov](mailto:hoffmanme@gao.gov), or James R. McTigue Jr. at [mctiguej@gao.gov](mailto:mctiguej@gao.gov).

**What GAO Found**

Debt limit impasses impose avoidable costs. As a projected date nears when the U.S. will be unable to meet all its financial obligations—the X date—investors often demand higher yields on new Treasury securities maturing near that date to compensate for the added risk. This increases the government’s borrowing costs. GAO estimates that Treasury securities issued during periods of acute market concern over impasses between 2011 and 2023—the most recent impasses with complete data available at the time of GAO’s analysis—incurred a total of roughly \$107 million to \$161 million in increased immediate borrowing costs (in 2024 dollars), depending on the measure used to estimate market concern. Impasses also impose additional, hard-to-quantify costs, including long-term costs from reduced investor confidence in the Treasury market.

**Estimated Immediate Treasury Borrowing Costs Associated with Debt Limit Impasses**

Estimated borrowing cost increase (2024 dollars in millions)  
\$100



Source: GAO analysis of data from the Department of the Treasury, the Federal Reserve Bank of St. Louis, and Bloomberg. | GAO-26-107872

Note: For each impasse, GAO used two distinct measures of market concern to estimate increased borrowing costs. For more details, see fig. 2 in [GAO-26-107872](#).

Debt limit impasses have also reduced the market value of outstanding Treasury securities. Market participants avoided securities maturing near a projected X-date, as those maturing after this date would be the first to default if the impasse were not resolved in time. GAO’s analysis found that these securities lost value relative to comparable ones maturing just before the X-date.

Impasse disruptions to Treasury markets can spread to short-term funding markets and funds closely tied to Treasury securities. In 2011 and 2013, such disruptions included higher borrowing rates and money market fund outflows. These disruptions prompted market participant actions to limit risk and manage future impasse effects. However, other disruptions can occur after impasses are resolved, as fluctuations in the Department of the Treasury’s cash balance create volatility in some markets.

GAO’s prior work has identified longstanding concerns about the debt limit ([GAO-25-107089](#)). The current debt limit process creates an unnecessary risk of U.S. default, with potentially devastating consequences for individuals, financial institutions, and the broader economy. The costs and market disruptions documented in this report further underscore the need for debt limit reform.

**Why GAO Did This Study**

Congress imposes a legal limit on federal borrowing, known as the debt limit. Under the current process, Congress can approve spending increases or tax cuts without also ensuring that Treasury has sufficient borrowing authority to finance these decisions. In recent years, when the federal government has approached the debt limit, prolonged congressional negotiations on increasing or suspending the limit have repeatedly brought it close to being unable to continue paying obligations stemming from past spending and revenue decisions. If Treasury exhausts its borrowing authority and runs out of cash, a default will occur.

In this report, GAO examines how debt limit impasses—where outstanding debt reached the limit and Congress did not immediately raise or suspend it—between 2011 and 2023 affected Treasury’s borrowing costs and U.S. financial markets more broadly.

GAO analyzed financial market data and developed a suite of econometric models to estimate increased borrowing costs attributable to these impasses. GAO also reviewed relevant research, documentation, and laws. In addition, GAO interviewed agency officials and 17 financial market participants, selected to reflect a range of institution types and sizes.

**What GAO Recommends**

GAO previously outlined alternatives to the current debt limit process and recommended that Congress replace it with an approach that links debt decisions to spending and revenue decisions at the time they are made ([GAO-15-476](#) and [GAO-25-107089](#)). GAO maintains that it is imperative that Congress take this action to prevent the recurring adverse effects of debt limit impasses.

## **Title 12 – Banks and Banking**

### **Chapter I – Comptroller of the Currency, Department of the Treasury**

- ▼ **Title 12** Banks and Banking Part / Section
- ▼ **Chapter I** Comptroller of the Currency, Department of the Treasury 1 – 199
- ▼ **Part 32** Lending Limits 32.1 – 32.9
  - § 32.1 Authority, purpose and scope.
  - § 32.2 Definitions.
  - § 32.3 Lending limits.
  - § 32.4 Calculation of lending limits.
  - § 32.5 Combination rules.
  - § 32.6 Nonconforming loans and extensions of credit.
  - § 32.7 Residential real estate loans, loans to small businesses, and loans or extensions of credit to small farms (“Supplemental Lending Limits Program”).
  - § 32.8 Temporary funding arrangements in emergency situations.
  - § 32.9 Credit exposure arising from derivative and securities financing transactions.

#### **Appendix A to Part 32**

Interpretations

**Title 12 – Banks and Banking**

**Chapter II – Federal Reserve System**

**Subchapter A – Board of Governors of the Federal Reserve System**

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▼ <b>Subchapter A</b>	Board of Governors of the Federal Reserve System	200 – 269b
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§§ 265.14-265.19	<i>[Reserved]</i>	
§ 265.20	Functions delegated to Federal Reserve Banks.	

**OFFICE OF MANAGEMENT AND BUDGET**

**CIRCULAR NO. A-108**

**TO THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**

**SUBJECT:** Federal Agency Responsibilities for Review, Reporting, and Publication  
under the Privacy Act

1. Purpose
2. Authorities
3. Applicability
4. Background
5. Definitions
6. Publishing System of Records Notices
7. Reporting Systems of Records to OMB and Congress
8. Publishing Matching Notices
9. Reporting Matching Programs to OMB and Congress
10. Privacy Act Implementation Rules
11. Privacy Act Exemption Rules
12. Privacy Act Reviews
13. Annual FISMA Privacy Review and Report
14. Annual Matching Activity Review and Report
15. Agency Website Posting
16. Government-wide Responsibilities
17. Effectiveness
18. Inquiries

Appendix I – Summary of Key Requirements

Appendix II – Office of the Federal Register SORN Template – Full Notice

Appendix III – Office of the Federal Register SORN Template – Notice of Revision

Appendix IV – Office of the Federal Register Notice of Rescindment Template

Appendix V – Office of the Federal Register Matching Notice Template – Full Notice

Appendix VI – Office of the Federal Register Matching Notice Template – Notice of Revision

## 1. Purpose

This Office of Management and Budget (OMB) Circular describes agency responsibilities for implementing the review, reporting, and publication requirements of the Privacy Act of 1974 (“the Privacy Act”),<sup>1</sup> and related OMB policies. This Circular supplements and clarifies existing OMB guidance, including OMB Circular No. A-130, *Managing Information as a Strategic Resource*,<sup>2</sup> *Privacy Act Implementation: Guidelines and Responsibilities*,<sup>3</sup> *Implementation of the Privacy Act of 1974: Supplementary Guidance*,<sup>4</sup> and *Final Guidance Interpreting the Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988*.<sup>5</sup> All OMB guidance is available on the OMB website.<sup>6</sup>

This Circular establishes general requirements. Agencies shall coordinate with OMB when implementing these general requirements and shall consult other OMB guidance documents and OMB’s Office of Information and Regulatory Affairs (OIRA) for the most up-to-date information.

## 2. Authorities

OMB issues this Circular pursuant to the following authorities:

- a. Privacy Act of 1974;<sup>7</sup>
- b. Paperwork Reduction Act of 1995;<sup>8</sup> and
- c. Federal Information Security Modernization Act of 2014.<sup>9</sup>

## 3. Applicability

This Circular applies to all agencies and records subject to the Privacy Act.<sup>10</sup>

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<sup>1</sup> 5 U.S.C. § 552a.

<sup>2</sup> OMB Circular No. A-130, *Managing Information as a Strategic Resource* (July 28, 2016), *available at* <https://www.whitehouse.gov/sites/default/files/omb/assets/OMB/circulars/a130/a130revised.pdf>. The reissuance of Circular A-108 replaces the reporting and publication requirements in Appendix I of the 2000 version of Circular A-130. *See id.* at n.115.

<sup>3</sup> *Privacy Act Implementation: Guidelines and Responsibilities*, 40 Fed. Reg. 28,948 (July 9, 1975), *available at* [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/infogreg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/infogreg/implementation_guidelines.pdf).

<sup>4</sup> *Implementation of the Privacy Act of 1974: Supplementary Guidance*, 40 Fed. Reg. 56,741 (Dec. 4, 1975), *available at* <https://www.whitehouse.gov/sites/default/files/omb/assets/omb/infogreg/implementation1974.pdf>.

<sup>5</sup> *Final Guidance Interpreting the Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988*, 54 Fed. Reg. 25,818 (June 19, 1989), *available at* [https://www.whitehouse.gov/sites/default/files/omb/infogreg/final\\_guidance\\_pl100-503.pdf](https://www.whitehouse.gov/sites/default/files/omb/infogreg/final_guidance_pl100-503.pdf).

<sup>6</sup> OMB’s privacy guidance is available at [https://www.whitehouse.gov/omb/infogreg\\_infopoltech](https://www.whitehouse.gov/omb/infogreg_infopoltech).

<sup>7</sup> 5 U.S.C. § 552a.

<sup>8</sup> 44 U.S.C. §§ 3501-3521.

<sup>9</sup> *Id.* §§ 3551-3558.

<sup>10</sup> *See* 5 U.S.C. § 552a(a)(1), (4).

## 4. Background

The Privacy Act of 1974, which has been in effect since September 27, 1975, sets forth a series of requirements governing Federal agency practices with respect to certain information about individuals. Although the Privacy Act places principal responsibility for compliance on agencies, the statute requires the Director of OMB to develop guidelines and provide continuing assistance to and oversight of implementation by agencies.<sup>11</sup>

On July 1, 1975, OMB issued OMB Circular No. A-108, *Responsibilities for the Maintenance of Records About Individuals by Federal Agencies*, along with *Privacy Act Implementation: Guidelines and Responsibilities* (“Privacy Act Guidelines”).<sup>12</sup> Circular A-108 provided guidance on agencies’ responsibilities under the Privacy Act, while the Privacy Act Guidelines provided more detailed implementation guidance for the statute. On September 30, 1975, OMB issued a supplement to Circular A-108 providing expanded guidance on the reporting requirements of the Privacy Act.<sup>13</sup> This additional guidance on reporting requirements, which was subsequently updated,<sup>14</sup> superseded the preliminary guidance on reporting requirements contained in the Privacy Act Guidelines.

On December 12, 1985, OMB issued OMB Circular No. A-130, *Management of Federal Information Resources*.<sup>15</sup> Circular A-130 established policies for the management of Federal information resources, including procedural and analytic guidelines for implementing specific aspects of the policies. Circular A-130 rescinded Circular A-108 and replaced it with an Appendix I, *Federal Agency Responsibilities for Maintaining Records About Individuals*. Appendix I to Circular A-130 reissued the pertinent guidance in the rescinded Circular A-108 and provided further explanation of the requirements in the Privacy Act. OMB has revised Circular A-130 several times since its inception, including by incorporation of the requirements of the Computer Matching and Privacy Protection Act of 1988.<sup>16</sup>

With the reissuance of Circular A-108, OMB is revising and relocating the guidance that since 1985 had been included in Appendix I to Circular A-130. The reissued Circular A-108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*, replaces the November 28, 2000 version of Appendix I to Circular A-130 and supplements OMB’s Privacy Act Guidelines, which remain in effect. OMB has also revised and reissued Circular A-

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<sup>11</sup> See *id.* § 552a(v).

<sup>12</sup> Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>13</sup> OMB Circular No. A-108, Transmittal Memorandum No. 1, *Responsibilities for the maintenance of records about individuals by Federal agencies* (Sept. 30, 1975).

<sup>14</sup> See, e.g., OMB Circular No. A-108, Transmittal Memorandum No. 3, *Privacy Act implementation and revised guidance on new systems report* (May 17, 1976).

<sup>15</sup> OMB Circular A-130, *Management of Federal Information Resources*, 50 Fed. Reg. 52,730 (Dec. 24, 1985).

<sup>16</sup> See OMB Circular A-130, *Management of Federal Information Resources*, 58 Fed. Reg. 36,068 (July 2, 1993).

130, *Managing Information as a Strategic Resource*, which provides guidance on the management of agencies' privacy programs.<sup>17</sup>

## 5. Definitions

For the purpose of this Circular:

- a. The terms “agency,” “individual,” “maintain,” “matching program,” “non-Federal agency,” “recipient agency,” “record,” “routine use,” “source agency,” and “system of records,” are defined in the Privacy Act.<sup>18</sup>
- b. **Data Integrity Board.** The term “Data Integrity Board” means the board of senior officials designated by the head of an agency that is responsible for, among other things, reviewing the agency’s proposals to conduct or participate in a matching program and conducting an annual review of all matching programs in which the agency has participated.<sup>19</sup> At a minimum, the Data Integrity Board includes the Inspector General of the agency, if any, and the senior official designated by the head of the agency as responsible for implementation of the Privacy Act<sup>20</sup> (*i.e.*, the Senior Agency Official for Privacy).
- c. **Matching agreement.** The term “matching agreement” means a written agreement between a recipient agency and a source agency (or a non-Federal agency) that is required by the Privacy Act for parties engaging in a matching program.<sup>21</sup>
- d. **Matching notice.** The term “matching notice” means the notice published by an agency in the *Federal Register* upon the establishment, re-establishment, or modification of a matching program that describes the existence and character of the matching program.<sup>22</sup> A matching notice identifies the agencies involved, the purpose(s) of the matching program, the authority for conducting the matching program, the records and individuals involved, and additional details about the matching program.
- e. **Senior Agency Official for Privacy.** The term “Senior Agency Official for Privacy” means the senior official, designated by the head of each agency, who has agency-wide responsibility for privacy, including implementation of privacy protections; compliance with Federal laws, regulations, and policies relating to privacy; management of privacy risks at the agency; and a central policy-making role in the agency’s development and evaluation of legislative, regulatory, and other policy proposals.

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<sup>17</sup> OMB Circular No. A-130, *Managing Information as a Strategic Resource* (July 28, 2016), available at <https://www.whitehouse.gov/sites/default/files/omb/assets/OMB/circulars/a130/a130revised.pdf>.

<sup>18</sup> See 5 U.S.C. § 552a(a)(1)-(5), (7)-(11).

<sup>19</sup> See *id.* § 552a(u).

<sup>20</sup> See *id.* § 552a(u)(2).

<sup>21</sup> See *id.* § 552a(o).

<sup>22</sup> See *id.* § 552a(e)(12).

- f. **System of records notice.** The term “system of records notice” (SORN) means the notice(s) published by an agency in the *Federal Register* upon the establishment and/or modification of a system of records describing the existence and character of the system.<sup>23</sup> A SORN identifies the system of records, the purpose(s) of the system, the authority for maintenance of the records, the categories of records maintained in the system, the categories of individuals about whom records are maintained, the routine uses to which the records are subject, and additional details about the system as described in this Circular. As explained in this Circular, a SORN may be comprised of a single *Federal Register* notice addressing all of the required elements that describe the current system of records, or it may be comprised of multiple *Federal Register* notices that together address all of the required elements.

## 6. Publishing System of Records Notices

- a. **General.** The Privacy Act requires agencies to publish a SORN in the *Federal Register* describing the existence and character of a new or modified system of records.<sup>24</sup> A SORN is comprised of the *Federal Register* notice(s) that identifies the system of records, the purpose(s) of the system, the authority for maintenance of the records, the categories of records maintained in the system, the categories of individuals about whom records are maintained, the routine uses to which the records are subject, and additional details about the system. The requirement for agencies to publish a SORN allows the Federal Government to accomplish one of the basic objectives of the Privacy Act – fostering agency accountability through public notice.
- b. **When to Publish a System of Records Notice.** Agencies are required to publish a SORN in the *Federal Register* when establishing a new system of records and must also publish notice in the *Federal Register* when making significant changes to an existing system of records. As a general matter, significant changes are those that are substantive in nature and therefore warrant a revision of the SORN in order to provide notice to the public of the character of the modified system of records. The following are examples of significant changes:
- (1) A substantial increase in the number, type, or category of individuals about whom records are maintained in the system. For example, a system covering physicians that is being expanded to include other types of health care providers (e.g., nurses or technicians) would require a revised SORN. Increases attributable to normal growth in a single category of individuals generally would not require a revised SORN.
  - (2) A change that expands the types or categories of records maintained in the system. For example, a benefit system that originally included only earned income information that is being expanded to include unearned income information would require a revised SORN.
  - (3) A change that modifies the scope of the system. For example, the combining of two or more existing systems of records.

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<sup>23</sup> See *id.* § 552a(e)(4).

<sup>24</sup> See *id.*

- (4) A change that modifies the purpose(s) for which the information in the system of records is maintained.
- (5) A change in the agency's authority to maintain the system of records or maintain, collect, use, or disseminate the records in the system.
- (6) A change that modifies the way in which the system operates or its location(s) in such a manner as to modify the process by which individuals can exercise their rights under the statute (*e.g.*, to seek access to or amendment of a record).
- (7) A change to equipment configuration (either hardware or software), storage protocol, type of media, or agency procedures that expands the availability of, and thereby creates substantially greater access to, the information in the system. For example, a change in the access controls that substantially increases the accessibility of the information within the agency.
- (8) A new routine use or significant change to an existing routine use that has the effect of expanding the availability of the information in the system.<sup>25</sup>
- (9) The promulgation of a rule to exempt a system of records from certain provisions of the Privacy Act.<sup>26</sup>

This is not an exhaustive list of significant changes that would require a revised SORN. Other changes to a system of records would require a revised SORN if the changes are substantive in nature and therefore warrant additional notice. If an agency has questions about whether particular changes to a system of records are significant, the agency shall contact OIRA for assistance.

- c. ***What to Publish in a System of Records Notice.*** Each notice of a new or modified system of records shall be drafted using the Office of the Federal Register SORN templates, which are provided in the appendices to this Circular. When an agency establishes a new system of records, the SORN is comprised of a single *Federal Register* notice that includes all of the required elements that are identified in Appendix II to this Circular, *Office of the Federal Register SORN Template – Full Notice*. When an agency modifies an existing system of records, the agency may choose to publish a *Federal Register* notice that includes all of the required elements identified in Appendix II, or a notice that includes the elements that are identified in Appendix III to this Circular, *Office of the Federal Register SORN Template – Notice of Revision*, as well as any other elements that are being revised.

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<sup>25</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,963 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>26</sup> A Privacy Act exemption rule that is part of a report of a new or significantly modified system of records may also be reviewed by OMB under applicable regulatory review procedures (see section 11 of this Circular for information about Privacy Act exemption rules).

- d. **Who Publishes a System of Records Notice.** The agency responsible for maintaining a system of records (including by providing for the operation of a system of records by a contractor on behalf of the agency) publishes the SORN.<sup>27</sup> Publication shall occur at the agency level, rather than the sub-agency, component, or program level. If a system of records will be maintained by a sub-agency or component of an agency, the broader agency shall publish the SORN and specify the sub-agency or component of the agency that will maintain the system of records. For example, the Department of the Treasury publishes SORNs covering systems of records maintained by the Internal Revenue Service.
- e. **Timing of a System of Records Notice.**<sup>28</sup> A new or revised SORN is effective upon publication in the *Federal Register*, with the exception of any new<sup>29</sup> or significantly modified routine uses. As soon as a SORN is published in the *Federal Register* the agency may begin to operate the system of records – the agency may collect, maintain, and use records in the system, and the agency may disclose records pursuant to any of the conditions of disclosure in subsection (b) of the Privacy Act other than a new or significantly modified routine use. Any new or significantly modified routine uses require a minimum of 30 days after publication in the *Federal Register* before the routine uses are effective and may be used as the basis for disclosure of a record in the system.<sup>30</sup>

Agencies shall publish notice of any new or significantly modified routine use sufficiently in advance of the proposed effective date of the routine use to permit time for the public to comment and for the agency to review those comments. In no circumstance may an agency use a new or significantly modified routine use as the basis for a disclosure fewer than 30 days following *Federal Register* publication.<sup>31</sup>

If an agency receives public comments on a published SORN, the agency shall review the comments to determine whether any changes to the SORN are necessary. If the agency determines that significant changes to the SORN are necessary, the agency shall publish a revised SORN. If the agency determines that significant changes to the routine uses or additional routine uses are necessary, the agency shall provide an additional 30-day public comment and review period.

- f. **Rescindment of a System of Records Notice.** When an agency stops maintaining a previously established system of records, the agency shall publish a notice of rescindment in the *Federal Register*. Each notice of rescindment shall be drafted using the *Office of the Federal Register Notice of Rescindment Template*, which is provided in Appendix IV to this Circular. The notice of rescindment shall identify the system of records, explain why the SORN is being rescinded, and provide an account of what will happen to the records that

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<sup>27</sup> The exception to this requirement is in the case of a SORN for a government-wide system of records. For a government-wide system of records, the agency with government-wide responsibility shall publish the SORN (see section 6(i) of this Circular for information about government-wide systems of records).

<sup>28</sup> Agencies may not publish a SORN in the *Federal Register* until they have provided advance notice of the proposal to OMB and Congress pursuant to the reporting instructions in section 7 of this Circular.

<sup>29</sup> New routine uses include any routine uses that the agency is newly applying to the specific system, including routine uses that may already have been established for other systems of records.

<sup>30</sup> See 5 U.S.C. § 552a(e)(11).

<sup>31</sup> See *id.*

were previously maintained in the system. If the records in the system of records will be combined with another system of records or maintained as part of a new system of records, the notice of rescindment shall direct members of the public to the SORN for the system that will include the relevant records.

There are many reasons why agencies may need to rescind a SORN. For example, the Privacy Act provides that an agency may only collect or maintain in its records information about individuals that is relevant and necessary to accomplish a purpose that is required by statute or executive order.<sup>32</sup> If a system of records is comprised of records that no longer meet that standard, the Privacy Act may require that the agency stop maintaining the system and expunge the records in accordance with the requirements in the SORN and the applicable records retention or disposition schedule approved by the National Archives and Records Administration.

- g. ***Format and Style of a System of Records Notice.*** Agencies shall draft SORNs in plain language with an appropriate level of detail to ensure that the public is properly informed about the character of the system of records.<sup>33</sup> Agencies shall follow the publication format in the Office of the Federal Register SORN templates, which are provided in the appendices to this Circular. In addition, agencies shall consult the Office of the Federal Register's *Document Drafting Handbook* for general guidance on drafting *Federal Register* notices.<sup>34</sup>
- h. ***Scope of a System of Records.*** The Privacy Act requires agencies to publish a separate SORN for each system of records. Before developing a SORN, agencies shall carefully consider the proper scope of the system of records. Agencies have discretion in determining what constitutes a system of records for purposes of preparing a notice.<sup>35</sup> However, agencies shall consider the following general factors when determining whether a group of records will be treated as a single system or multiple systems for the purposes of the Privacy Act:
- (1) The agency's ability to comply with the requirements of the Privacy Act and facilitate the exercise of the rights of individuals.<sup>36</sup>
  - (2) The informative value of the notice. Agencies shall consider whether a single SORN or multiple SORNs would provide the most informative notice to the public about the existence and character of the system(s).<sup>37</sup>

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<sup>32</sup> See *id.* § 552a(e)(1).

<sup>33</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,962 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>34</sup> Document Drafting Handbook, Office of the Federal Register, National Archives and Records Administration, available at <http://www.archives.gov/federal-register/write/handbook/>.

<sup>35</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,952, 28,962-63 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>36</sup> See *id.*

<sup>37</sup> See *id.* at 28,962-63.

- (3) The agency's ability to be responsive to individual access requests. Agencies shall consider whether a single SORN or multiple SORNs would provide the best notice to individuals regarding how and where they may request access to their records maintained in the system(s) and would allow the agency to most effectively respond to such requests.<sup>38</sup>
- (4) The purpose(s) and use(s) of the records.<sup>39</sup> If different groups of records are used for distinct purposes, it may be appropriate to treat those different groups of records as separate systems. Although different groups of records may serve a general common purpose, agencies shall also consider whether different routine uses or security requirements apply to the different groups, or whether the groups are regularly accessed by different employees of the agency.
- (5) The cost and convenience to the agency, but only to the extent consistent with the above considerations regarding compliance and individual rights.<sup>40</sup>

Considerable latitude is left to agencies in defining the scope or grouping of records that constitute a system of records. An agency may choose to consider the entire group of records for a particular program as a single system, or the agency may consider it appropriate to segment a group of records (*e.g.*, by function or geographic unit) and treat each segment as a system of records to provide better notice to the public.<sup>41</sup> When an agency chooses to segment a group of records into separate systems of records, the agency shall nevertheless ensure that the SORN for each segment clearly describes any linkages that exist between the different systems of records based on the retrieval of the records. For example, if records described in different SORNs are in fact linked together through a central indexing or retrieval capability such that an employee or contractor retrieving records described in one SORN would necessarily also retrieve and gain access to records described in another SORN, the agency shall explain this linkage in the "Policies and Practices for Retrieval of Records" section of both SORNs.

- i. ***Government-Wide System of Records.*** A government-wide system of records is a system of records where one agency has regulatory authority over records in the custody of multiple agencies, and the agency with regulatory authority publishes a SORN that applies to all of the records regardless of their custodial location. The application of a government-wide SORN ensures that privacy practices with respect to the records are carried out uniformly across the Federal Government in accordance with the rules of the responsible agency. For a government-wide system of records, all agencies – not just the agency with government-wide responsibilities – are responsible for complying with the terms of the SORN and the applicable requirements in the Privacy Act, including the access and amendment provisions that apply to records under an agency's control.

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<sup>38</sup> *See id.*

<sup>39</sup> *See id.*

<sup>40</sup> *See id.* at 28,952.

<sup>41</sup> *See id.*

As a general matter, a government-wide system of records is appropriate when one agency has government-wide responsibilities that involve administrative or personnel records maintained by other agencies. For example, the Office of Personnel Management has published a number of government-wide SORNs relating to the operation of the Federal Government's personnel programs. Agencies shall coordinate with OIRA whenever they are considering the need for a new government-wide system of records.

All government-wide systems of records necessarily affect multiple agencies that will have custody of the records in the system. Accordingly, one step of OMB's review of a new or modified government-wide system of records will involve an interagency review process that allows other affected agencies to review the proposal and provide comments. Once the agency with regulatory authority has published a government-wide SORN, no other agency shall publish a SORN that duplicates the existing government-wide SORN, unless such publication has been approved by OMB.

- j. ***System of Records Operated by a Contractor.***<sup>42</sup> When an agency provides by contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall cause the requirements of the Privacy Act to be applied to the system, limited only by the agency's authority to do so.<sup>43</sup> In such cases, the system operated by the contractor is, in effect, deemed to be maintained by the agency.<sup>44</sup> The agency shall publish a SORN for the system, establish an appropriate routine use to permit disclosure of records to the contractor for the purpose of operating the system, and, to the extent consistent with the agency's authority, incorporate enforceable clauses in the contract and statement of work to ensure that the contractor complies with all applicable requirements of the statute and OMB policies.

Agencies shall design their procurement practices to ensure that all contracts that involve the creation, collection, use, processing, storage, maintenance, dissemination, disclosure, or disposal of information that identifies and is about individuals are reviewed and approved by the Senior Agency Official for Privacy before award to help evaluate whether a system of records will be established and, if so, to include appropriate clauses in the contract.<sup>45</sup> The Senior Agency Official for Privacy shall have access to a complete and accurate list of all of the agency's contracts involving information that identifies and is about individuals, and shall establish a process to ensure that the language of each contract is sufficient and that the applicable requirements in the Privacy Act and OMB policies are enforceable on the contractor and its employees consistent with the agency's authority.

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<sup>42</sup> In cases where an agency acts as a service provider for one or multiple agencies, all agencies involved must ensure compliance with applicable Privacy Act requirements.

<sup>43</sup> See 5 U.S.C. § 552a(m).

<sup>44</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,976 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>45</sup> See *id.*

- k. ***Routine Uses.*** A routine use is a particular kind of disclosure of a record outside of the agency maintaining the system of records.<sup>46</sup> To qualify as a routine use, the disclosure must be for a purpose that is compatible with the purpose for which the information was originally collected.<sup>47</sup> The routine use provision of the Privacy Act functions as one of the exceptions to the statute's general prohibition against the disclosure of a record without the written consent of the individual to whom the record pertains.<sup>48</sup>

The Privacy Act requires agencies to describe each routine use of the records contained in the system of records, including the categories of users of the records and the purpose of the use.<sup>49</sup> Agencies may only establish routine uses for a system by explicitly publishing the routine uses in the relevant SORN.<sup>50</sup> Agencies are strongly encouraged to publish all routine uses applicable to a system of records in a single *Federal Register* notice for that system. However, some agencies choose to publish a separate notice of routine uses that are applicable to many systems of records at the agency, and then incorporate them by reference into the notices for specific systems to which they apply. When incorporating such routine uses by reference, agencies shall ensure that the routine use section of the SORN clearly indicates which of the separately published routine uses apply to the system of records and includes the *Federal Register* citation where they have been published.

Routine uses shall be narrowly tailored to address a specific and appropriate use of the records. Agencies shall describe each routine use with sufficient clarity and specificity to ensure that members of the public who are unfamiliar with the system or the agency's program can understand the uses to which the records are subject.<sup>51</sup> Overly broad or ambiguous language would undermine the purpose of the routine use notice requirement and shall be avoided. A routine use that only applies to certain records in a system of records should indicate its limited scope.

Before establishing a routine use, an agency must determine that it has the necessary authority to make disclosures under the routine use and that the routine use is appropriate. As explained in OMB's Privacy Act Guidelines, a routine use may be appropriate when the use of the record is necessary for the efficient conduct of government, and when the use is both *related to* and *compatible with* the original purpose for which the information was collected (e.g., the development of a sampling frame for an evaluation study or other statistical purposes).<sup>52</sup> Moreover, the concept of compatibility comprises both *functionally equivalent* uses of the information as well as other uses of the information that are *necessary and proper* (e.g., a disclosure to the National Archives and Records Administration to

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<sup>46</sup> See Implementation of the Privacy Act of 1974: Supplementary guidance, 40 Fed. Reg. 56,741, 56,742 (Dec. 4, 1975), available at <https://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation1974.pdf>.

<sup>47</sup> See 5 U.S.C. § 552a(a)(7).

<sup>48</sup> See *id.* § 552a(b)(3).

<sup>49</sup> See *id.* § 552a(e)(4)(D).

<sup>50</sup> See *id.*

<sup>51</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,963 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>52</sup> See *id.* at 28,953-54.

conduct records management activities pursuant to specific statutory authority).<sup>53</sup>

Agencies shall publish notice of any new or significantly modified routine uses sufficiently in advance of the proposed effective date of the routine uses to permit time for the public to comment and for the agency to review those comments.<sup>54</sup> In all cases, the Privacy Act requires agencies to publish any new or modified routine use at least 30 days before the effective date of the routine use.<sup>55</sup> An agency shall not disclose any records pursuant to a new or modified routine use until after the 30-day comment period has ended and the agency has considered any comments from the public and determined that no further modifications are necessary.

If an agency determines that an existing routine use is no longer necessary or appropriate, the agency shall immediately discontinue all disclosures under the routine use and shall publish a revised SORN in the *Federal Register* rescinding the routine use. Moreover, if an agency determines that the routine uses in a SORN do not accurately and completely describe all routine use disclosures to which the records in the system are subject, the agency shall discontinue any disclosures that are not accurately and completely described and revise the routine uses in the SORN to accurately and completely describe those disclosures.

1. ***Information Collections and Privacy Act Statements.*** If an agency will be collecting information as part of a new or modified system of records, the agency may need to comply with additional requirements, including those in the Paperwork Reduction Act,<sup>56</sup> the E-Government Act of 2002,<sup>57</sup> and related OMB guidance. Agencies (and their contractors) shall meet all applicable requirements before they begin collecting the information. For guidance on whether and how these statutes and OMB policies apply to a collection activity, agencies shall consult OMB guidance and contact OIRA.

Moreover, if an agency asks individuals to supply information that will become part of a system of records, the agency is required to provide a Privacy Act statement on the form used to collect the information or on a separate form that can be retained by the individual.<sup>58</sup> The agency shall provide a Privacy Act statement in such circumstances regardless of whether the information will be collected on a paper or electronic form, on a website, on a mobile application, over the telephone,<sup>59</sup> or through some other medium. This requirement ensures that the individual is provided with sufficient information about the request for information

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<sup>53</sup> See Guidance on the Privacy Act Implications of “Call Detail” Programs to Manage Employees’ Use of the Government’s Telecommunications Systems, 52 Fed. Reg. 12,990, 12,993 (Apr. 20, 1987), available at [https://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/guidance\\_privacy\\_act.pdf](https://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/guidance_privacy_act.pdf).

<sup>54</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,966 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>55</sup> See 5 U.S.C. § 552a(e)(11).

<sup>56</sup> 44 U.S.C. §§ 3501-3521.

<sup>57</sup> 44 U.S.C. § 3501 note.

<sup>58</sup> See 5 U.S.C. § 552a(e)(3).

<sup>59</sup> When information is collected over the telephone, the agency shall orally provide the required information and provide a means by which the individual can receive the information in writing.

to make an informed decision on whether or not to respond.<sup>60</sup>

The Privacy Act statement shall include a plain-language description of:

- (1) the authority (whether granted by statute or executive order) that authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;
- (2) the principal purpose(s) for which the information is intended to be used;
- (3) the published routine uses to which the information is subject;<sup>61</sup>
- (4) the effects on the individual, if any, of not providing all or any part of the requested information; and
- (5) an appropriate citation (and, if practicable, a link) to the relevant SORN(s).

## 7. Reporting Systems of Records to OMB and Congress

- a. **General.** The Privacy Act requires each agency that proposes to establish or significantly modify a system of records to provide adequate advance notice of any such proposal to OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.<sup>62</sup> This advance notice is separate from the public comment period for new or modified routine uses required by subsection (e)(11) of the Privacy Act and discussed in section 6 of this Circular. Agencies provide advance notice to OMB and the committees of jurisdiction in Congress in order to permit an evaluation of the probable or potential effect of such a proposal on the privacy or other rights of individuals.<sup>63</sup>
- b. **Advance Notice of a New or Modified System of Records.** Agencies shall report to OMB and Congress any proposal to establish or significantly modify a system of records at least 30 days prior to the submission of the notice to the *Federal Register* for publication. OMB will have 30 days to review the proposal and provide any comments to the agency. The 30-day review period is separate from – and may not run concurrently with – the publication period in the *Federal Register*. Only significant changes to a system of records that require a

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<sup>60</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,961 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>61</sup> When describing the routine uses in the Privacy Act statement, agencies shall tailor the scope and content of the description in order to provide the most effective notice to the public. Agencies generally need not restate the full text of the published routine uses or provide a lengthy list of routine uses to which the information is subject. Rather, agencies may provide a plain-language summary of the routine uses and provide a link to the website where the full list of routine uses is available. See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,961-62 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>62</sup> See 5 U.S.C. § 552a(r).

<sup>63</sup> See *id.*

revision to the SORN, as described in section 6 of this Circular, need to be reported to OMB and Congress; changes that are not significant do not need to be reported.

Advance notice to OMB and Congress is required by subsection (r) of the Privacy Act. The purpose of the advance notice to OMB and Congress is to permit an evaluation of the potential effect of the proposal on the privacy and other rights of individuals.<sup>64</sup> Although the review period will generally require no more than 30 days, OMB has the discretion to extend the 30-day review period based on the specific circumstances of the proposal. If an agency has questions about the timing of the review, the agency shall consult with OIRA.

In circumstances where it is not feasible for the agency to wait until the 30-day review period for OMB and Congress has expired to publish the notice in the *Federal Register*, the agency may submit a formal written request from the Senior Agency Official for Privacy to OIRA for an expedited advance review period (see section 7(d) of this Circular for information about expedited review requests).

*Illustration of Standard Review Process for Systems of Records*<sup>65</sup>

<b>Agency Action</b>	<b>Explanation</b>	<b>Timing</b>
The agency submits report to OMB and Congress at least 30 days before publication of the notice in the <i>Federal Register</i> .	OMB and Congress have the opportunity to evaluate the probable or potential effect of such a proposal on the privacy or other rights of individuals.	Day 1
After incorporating any comments from OMB – and unless OMB provides instructions to the contrary – the agency may publish the notice in the <i>Federal Register</i> and solicit comments from the public.	Notices published in the <i>Federal Register</i> after review by OMB and Congress are effective upon publication, with the exception of any new or modified routine uses. New or modified routine uses require a minimum of 30 days after publication in the <i>Federal Register</i> before they can become effective.	Day 31
The 30-day public comment period closes and the agency reviews and considers any comments received. If no changes to the notice are necessary, the notice remains effective and any new or modified routine uses become effective.	If the agency receives public comments, the agency shall review the comments to determine whether any changes to the notice are necessary. If the agency determines that significant changes are necessary, the agency will need to begin the review process again.	Day 61

<sup>64</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,977 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>65</sup> OMB is providing this table to illustrate the steps of the standard review process. The actual timing of the process will depend on the specific circumstances of the proposal, the agency’s internal review and clearance procedures, the review process for any Privacy Act exemption rules, and the logistics of *Federal Register* publication.

c. ***Instructions for Reporting a New or Modified System of Records.*** Agencies are required to report to OMB and Congress any proposal to establish or significantly modify a system of records. Agencies shall report proposals to the committees of jurisdiction in Congress by messenger or by mailing the reports to the addresses provided below. Agencies shall report proposals to OMB using OMB's specific web-based portal, as described below. Agencies shall not mail or messenger paper versions of the report to OMB. Submission of the report to OMB will officially start the 30-day advance review period.

(1) *House of Representatives.* Agencies shall submit reports to the chair of the House Committee on Oversight and Government Reform, 2157 Rayburn House Office Building, Washington, DC 20515.

(2) *Senate.* Agencies shall submit reports to the chair of the Senate Committee on Homeland Security and Governmental Affairs, 340 Dirksen Senate Office Building, Washington, DC 20510.

(3) *OMB.* Agencies shall submit reports to OMB using the web-based portal jointly developed by OIRA and the General Services Administration's (GSA) Regulatory Information Service Center (RISC). This web-based portal, the RISC/OIRA Consolidated Information System (ROCIS), was developed to facilitate the submission and review of regulations and other agency materials.<sup>66</sup> For detailed instructions on how to use ROCIS to submit reports to OMB, agencies shall consult the user manuals available on the ROCIS website or register for the training classes conducted by RISC at GSA headquarters.<sup>67</sup>

d. ***Request for Expedited Review of a New or Modified System of Records.*** Although agencies are required to provide adequate advance notice of any proposal to establish or significantly modify a system of records, there may be circumstances where it is not feasible for the agency to wait until the 30-day review period has expired to publish a notice in the *Federal Register*. In such cases, the agency may submit a formal written request from the Senior Agency Official for Privacy to OIRA for an expedited OMB review period. The request shall be included in the transmittal letter that the agency submits to OIRA in ROCIS. The request shall demonstrate the agency's specific and compelling need for the expedited review, indicate why the agency cannot meet the established review period, and explain the consequences if the request is not granted.

When OIRA grants an agency's request for expedited review, the agency will be allowed to publish the notice in the *Federal Register* after the expedited OMB review period. When OIRA does not grant an agency's request for expedited review, the normal OMB review process will proceed. Agencies shall note that OMB may not waive the explicit requirement

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<sup>66</sup> See RISC/OIRA Consolidated Information System (ROCIS), available at <https://www.rocis.gov/>.

<sup>67</sup> All ROCIS user manuals and training information are available on the ROCIS website at <https://www.rocis.gov/rocis/login.do>.

in the Privacy Act for a 30-day *Federal Register* public notice before the adoption of a new or modified routine use,<sup>68</sup> nor may OMB waive the adequate advance notice that is required to Congress.<sup>69</sup>

- e. ***Content of the Report of a New or Modified System of Records.*** The report of a new or significantly modified system of records includes a transmittal letter, a narrative statement, a draft *Federal Register* notice, any Privacy Act exemption rules, and any supplementary documents.
- (1) ***Transmittal Letter.*** The transmittal letter serves as a brief cover letter accompanying the report. The transmittal letter shall:
    - (A) Be signed by the Senior Agency Official for Privacy.
    - (B) Contain the name, email address, and telephone number of the individual who can best answer questions about the proposed system of records.
    - (C) Contain the agency's assurance that the proposed system of records fully complies with the Privacy Act and OMB policies.
    - (D) Contain the agency's assurance that the proposed system of records does not duplicate any existing agency or government-wide systems of records.
  - (2) ***Narrative Statement.*** The narrative statement provides a brief overview of the proposed system of records making reference to the other materials in the report without simply restating information provided in those materials. The narrative statement shall:
    - (A) Describe the purpose(s) for which the agency is establishing or modifying the system of records and explain how the scope of the system is commensurate with the purpose(s) of the system.
    - (B) Identify the specific authority (statute or executive order) under which the system of records will be maintained. The agency shall avoid citing authority that is overly general; rather, the agency shall cite the specific programmatic authority for collecting, maintaining, using, and disseminating the information.
    - (C) An evaluation of the probable or potential effect of the proposal on the privacy of individuals whose information will be maintained in the system of records.<sup>70</sup> If the agency has conducted one or more privacy impact assessment(s) with respect to information technology that will be used to

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<sup>68</sup> See 5 U.S.C. § 552a(e)(11).

<sup>69</sup> See *id.* § 552a(r).

<sup>70</sup> 5 U.S.C. § 552a(r) provides that agencies report a proposal to OMB and Congress in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.

collect, maintain, or disseminate the information in the system of records, the privacy impact assessment(s) will likely provide the information necessary to meet this requirement, and may be submitted in lieu of drafting a separate evaluation.

- (D) Explain how each new or modified routine use satisfies the compatibility requirement of the Privacy Act.<sup>71</sup>
  - (E) Identify any information collections approved by OMB or submitted to OMB for approval that will be used to collect information that will be maintained in the system of records, and provide the relevant names, OMB control numbers, and expiration dates. If the request for OMB approval of an information collection is pending, the agency may simply state the name of the collection and the date it was submitted to OMB for review.
- (3) *Federal Register Notice.* The draft new or revised notice in the format prescribed by the Office of the Federal Register SORN templates, which are provided in the appendices to this Circular.
- (4) *Exemption Rule.* Any new Privacy Act exemption rules or changes to published exemption rules in *Federal Register* format that the agency proposes to issue that will apply to records in the new or significantly modified system of records.
- (5) *Supplementary Documents.* The supplementary documents include:
- (A) For significantly modified systems, the agency shall include a list of the substantive changes to the previously published version of the notice and/or a version of the previously published notice that has been marked up to show the changes that are being proposed.
  - (B) The agency shall include any other supplementary documents requested by OMB.
- f. ***Reporting General Changes to Multiple Systems of Records.*** When an agency makes a general change to agency programs or information technology that applies in a similar way to multiple systems of records (*e.g.*, enabling remote access to systems, moving systems from a conventional data center to a cloud-based storage environment, adding a routine use to all systems of records), the agency may submit a single, consolidated report to OMB and Congress describing the changes. However, the agency shall ensure that any changes are properly reflected in all published SORNs.

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<sup>71</sup> See 5 U.S.C. § 552a(a)(7).

## 8. Publishing Matching Notices

- a. **General.** The Privacy Act requires recipient agencies (or source agencies in a matching program where a non-Federal agency is the recipient agency) to publish a notice in the *Federal Register* upon the establishment, re-establishment,<sup>72</sup> or modification of a matching program.<sup>73</sup> A matching notice identifies the agencies involved, the purpose(s) of the matching program, the authority for conducting the matching program, the records and individuals involved, and additional details about the matching program. The requirement for agencies to publish a matching notice allows the Federal Government to foster transparency and accountability with respect to agencies' matching programs.
- b. **When to Publish a Matching Notice.** Agencies are required to publish a matching notice in the *Federal Register* at least 30 days prior to the establishment, re-establishment, or significant modification of the matching program.<sup>74</sup> Notice is not required for the one-year renewal of a matching program by the agency's Data Integrity Board.<sup>75</sup> If the agency is re-establishing a matching program and continuing the program past the expiration of the current matching agreement (including any one-year renewal approved by the Data Integrity Board), the agency shall publish a notice of the re-establishment at least 30 days prior to the expiration of the existing matching agreement.

Agencies are only required to publish a revised matching notice when they are making significant changes to the matching program. As a general matter, significant changes are those that are substantive in nature and therefore warrant a revision of the matching notice in order to provide notice to the public of the modified matching program. The following are examples of significant changes:

- (1) A change that modifies the purpose(s) of the matching program.
- (2) A change in the agency's authority to conduct the matching program.
- (3) A change that expands the types or categories of records that are used in the matching program, or a significant increase in the number of records that are being matched.
- (4) A change that expands the categories of individuals whose records are used in the matching program.

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<sup>72</sup> The *re-establishment* of a matching program occurs when an agency re-establishes a matching program upon the expiration of a matching agreement. The re-establishment of a matching program requires the publication of a matching notice in the *Federal Register* and needs to be reported to OMB and Congress (see section 9 of this Circular for information about reporting matching programs). In contrast, the *renewal* of a matching program occurs when an agency's Data Integrity Board renews a matching agreement for one additional year pursuant to 5 U.S.C. § 552a(o)(2)(D). The renewal of a matching program does not require the publication of a matching notice and does not need to be reported to OMB or Congress.

<sup>73</sup> See 5 U.S.C. § 552a(e)(12).

<sup>74</sup> See *id.*

<sup>75</sup> See *id.* § 552a(o)(2)(D).

- (5) A change to the source and/or recipient agencies that are involved in the matching program.

This is not an exhaustive list of significant changes that would require a revised matching notice. Other changes to a matching program would require a revised notice if the changes are substantive in nature and therefore warrant additional notice. If an agency has questions about whether particular changes to a matching program are significant, the agency shall contact OIRA for assistance.

- c. ***What to Publish in a Matching Notice.*** Each matching notice shall be drafted using the Office of the Federal Register matching notice templates, which are provided in the appendices to this Circular. When an agency establishes or re-establishes a matching program, the matching notice is comprised of a single *Federal Register* notice that includes all of the required elements that are identified in Appendix V to this Circular, *Office of the Federal Register Matching Notice Template – Full Notice*. When an agency modifies an existing matching program, the agency may choose to publish a *Federal Register* notice that includes all of the required elements identified in Appendix V, or a notice that includes the elements that are identified in Appendix VI to this Circular, *Office of the Federal Register Matching Notice Template – Notice of Revision*, as well as any other elements that are being revised.
- d. ***Who Publishes a Matching Notice.*** The recipient agency (or source agency in a matching program where a non-Federal agency is the recipient agency) is responsible for meeting the publication requirements associated with a matching program. However, where a recipient agency is not the actual beneficiary of the matching program, it may, to the extent legally permissible, negotiate with the actual beneficiary agency for reimbursement of the costs incurred in publishing the matching notice. Publication shall occur at the agency level, rather than the sub-agency, component, or program level. If a matching program will be conducted by a sub-agency or component of an agency, the broader agency shall publish the matching notice and specify the sub-agency or component that will conduct the program.
- e. ***Timing of a Matching Notice.***<sup>76</sup> A new or revised matching notice is not effective until at least 30 days after its publication in the *Federal Register*. If an agency receives public comments on a published matching notice, the agency shall review the comments to determine whether any changes to the matching notice are necessary. If the agency determines that significant changes to the matching notice are necessary, the agency shall publish a revised matching notice and provide an additional 30-day public comment and review period.
- f. ***Format and Style of a Matching Notice.*** Agencies shall draft matching notices in plain language with an appropriate level of detail to ensure that the public is properly informed about the matching program. Agencies shall follow the publication format in the Office of the Federal Register matching notice templates, which are provided in the appendices to this

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<sup>76</sup> Agencies may not publish a matching notice in the *Federal Register* until they have provided advance notice of the proposal to OMB and Congress pursuant to the reporting instructions in section 9 of this Circular.

Circular. In addition, agencies shall consult the Office of the Federal Register's *Document Drafting Handbook* for general guidance on drafting *Federal Register* notices.<sup>77</sup>

## 9. Reporting Matching Programs to OMB and Congress

- a. **General.** The Privacy Act requires each agency that proposes to establish, re-establish, or significantly modify a matching program to provide adequate advance notice of any such proposal to OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.<sup>78</sup> This advance notice is separate from the public comment period for matching notices required by subsection (e)(12) of the Privacy Act and discussed in section 8 of this Circular. Agencies provide advance notice to OMB and the committees of jurisdiction in Congress in order to permit an evaluation of the probable or potential effect of such a proposal on the privacy or other rights of individuals.<sup>79</sup>
- b. **Advance Notice of a New or Modified Matching Program.** Agencies shall report to OMB and Congress any proposal to establish, re-establish, or significantly modify a matching program at least 30 days prior to the submission of the notice to the *Federal Register* for publication. If the agency is re-establishing a matching program and continuing the program past the expiration of the current matching agreement (including any one-year renewal approved by the Data Integrity Board), the agency shall report the proposal to re-establish the matching program at least 60 days prior to the expiration of the existing matching agreement.

OMB will have 30 days to review the proposal to establish, re-establish, or significantly modify a matching program and provide any comments to the agency. This 30-day review period is separate from – and may not run concurrently with – the publication period in the *Federal Register*. Only significant changes to a matching program that require a revision to the matching notice, as described in section 8 of this Circular, need to be reported to OMB and Congress; changes that are not significant do not need to be reported.

Advance notice to OMB and Congress is required by subsection (r) of the Privacy Act. The purpose of the advance notice to OMB and Congress is to permit an evaluation of the potential effect of the proposal on the privacy and other rights of individuals.<sup>80</sup> Although the review period will generally require no more than 30 days, OMB has the discretion to extend the 30-day review period based on the specific circumstances of the proposal. If an agency has questions about the timing of the review, the agency shall consult with OIRA.

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<sup>77</sup> Document Drafting Handbook, Office of the Federal Register, National Archives and Records Administration, available at <http://www.archives.gov/federal-register/write/handbook/>.

<sup>78</sup> See 5 U.S.C. § 552a(r).

<sup>79</sup> See *id.*

<sup>80</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,977 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

*Illustration of Standard Review Process for Matching Programs*<sup>81</sup>

Agency Action	Explanation	Timing
The agency submits report to OMB and Congress at least 30 days before publication of the notice in the <i>Federal Register</i> , and at least 60 days before the expiration of the matching agreement in the case of a re-established matching program.	OMB and Congress have the opportunity to evaluate the probable or potential effect of such a proposal on the privacy or other rights of individuals.	Day 1
After incorporating any comments from OMB – and unless OMB provides instructions to the contrary – the agency may publish the notice in the <i>Federal Register</i> and solicit comments from the public.	Matching notices published in the <i>Federal Register</i> are not effective until a minimum of 30 days after publication.	Day 31
The 30-day public comment period closes and the agency reviews and considers any comments received. If no changes to the notice are necessary, the notice is effective.	If the agency receives public comments, the agency shall review the comments to determine whether any changes to the notice are necessary. If the agency determines that significant changes are necessary, the agency will need to begin the review process again.	Day 61

c. **Instructions for Reporting a New or Modified Matching Program.** Agencies are required to report to OMB and Congress any proposal to establish, re-establish, or significantly modify a matching program. Agencies shall report proposals to the committees of jurisdiction in Congress by messenger or by mailing the reports to the addresses provided below. Agencies shall report proposals to OMB using OMB’s specific web-based portal, as described below. Agencies shall not mail or messenger paper versions of the report to OMB. Submission of the report to OMB will officially start the 30-day advance review period.

(1) *House of Representatives.* Agencies shall submit reports to the chair of the House Committee on Oversight and Government Reform, 2157 Rayburn House Office Building, Washington, DC 20515.

<sup>81</sup> OMB is providing this table to illustrate the steps of the standard review process. The actual timing of the process will depend on the specific circumstances of the proposal, the agency’s internal review and clearance procedures, and the logistics of *Federal Register* publication.

- (2) *Senate*. Agencies shall submit reports to the chair of the Senate Committee on Homeland Security and Governmental Affairs, 340 Dirksen Senate Office Building, Washington, DC 20510.
- (3) *OMB*. Agencies shall submit reports to OMB using the web-based portal jointly developed by OIRA and RISC. This web-based portal, called ROCIS, was developed to facilitate the submission and review of regulations and other agency materials.<sup>82</sup> For detailed instructions on how to use ROCIS to submit reports to OMB, agencies shall consult the user manuals available on the ROCIS website or register for the training classes conducted by RISC at GSA headquarters.<sup>83</sup>

- d. ***Request for Expedited Review of a New or Modified Matching Program***. Although agencies are required to provide adequate advance notice of any proposal to establish, re-establish, or significantly modify a matching program, there may be circumstances where it is not feasible for the agency to wait until the 30-day review period has expired to publish a notice in the *Federal Register*. In such cases, the agency may submit a formal written request from the Senior Agency Official for Privacy to OIRA for an expedited OMB review period. The request shall be included in the transmittal letter that the agency submits to OIRA in ROCIS. The request shall demonstrate the agency's specific and compelling need for the expedited review, indicate why the agency cannot meet the established review period, and explain the consequences if the request is not granted.

When OIRA grants an agency's request for expedited review, the agency will be allowed to publish the notice in the *Federal Register* after the expedited OMB review period. When OIRA does not grant an agency's request for expedited review, the normal OMB review process will proceed. Agencies shall note that OMB may not waive the explicit requirement in the Privacy Act for a 30-day *Federal Register* public notice before conducting a new or significantly modified matching program,<sup>84</sup> nor may OMB waive the adequate advance notice that is required to Congress.<sup>85</sup>

- e. ***Content of the Report of a New or Modified Matching Program***. The report of an established, re-established, or significantly modified matching program includes a transmittal letter, a narrative statement, a draft *Federal Register* notice, a matching agreement, and any supplementary documents.

- (1) *Transmittal Letter*. The transmittal letter serves as a brief cover letter accompanying the report. The transmittal letter shall:

- (A) Be signed by the Senior Agency Official for Privacy or the chairman of the Data Integrity Board.

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<sup>82</sup> See RISC/OIRA Consolidated Information System (ROCIS), available at <https://www.rocis.gov/>.

<sup>83</sup> All ROCIS user manuals and training information are available on the ROCIS website at <https://www.rocis.gov/rocis/login.do>.

<sup>84</sup> See 5 U.S.C. § 552a(e)(12).

<sup>85</sup> See *id.* § 552a(r).

- (B) Contain the name, email address, and telephone number of the individual who can best answer questions about the proposed matching program.
  - (C) Contain the agency's assurance that the proposed matching program was approved by the agency's Data Integrity Board and fully complies with the Privacy Act and OMB policies.
- (2) *Narrative Statement.* The narrative statement provides a brief overview of the proposed matching program making reference to the other materials in the report without simply restating information provided in those materials. The narrative statement shall:
- (A) Describe the purpose(s) for which the agency is establishing, re-establishing, or significantly modifying the matching program.
  - (B) Identify the specific authority (statute or executive order) under which the agency is conducting the matching program. The agency shall avoid citing authority that is overly general; rather, the agency shall cite the specific programmatic authority for conducting the matching program.
  - (C) Describe the administrative, technical, and physical safeguards in place to protect against unauthorized access to records used in the matching program.
  - (D) Provide the agency's specific evaluation of the potential impact on the privacy of individuals whose records will be used in the matching program.
  - (E) Indicate whether a cost-benefit analysis was performed for the matching program, describe the results of the cost-benefit analysis, and explain the basis on which the agency is justifying the matching program.
- (3) *Federal Register Notice.* The draft new or revised matching notice in the format prescribed by the Office of the Federal Register matching notice templates, which are provided in the appendices to this Circular.
- (4) *Matching Agreement.* The full matching agreement that was approved by the agency's Data Integrity Board.
- (5) *Supplementary Documents.* The supplementary documents include:
- (A) For significantly modified matching programs, the agency shall include a list of the substantive changes to the previously published version of the matching notice and/or a version of the previously published matching notice that has been marked up to show the changes that are being proposed.
  - (B) The agency shall include any other supplementary documents requested by OMB.

## 10. Privacy Act Implementation Rules

Each agency that maintains a system of records shall promulgate rules, in accordance with the rulemaking procedures in 5 U.S.C. § 553, to implement the requirements of the Privacy Act.<sup>86</sup> Privacy Act implementation rules shall provide the public with sufficient information to understand how an agency is complying with the law, and provide sufficient information for individuals to exercise their rights under the law.<sup>87</sup> In particular, agencies' Privacy Act implementation rules shall:

- a. establish procedures whereby an individual can be notified in response to his or her request if any system of records named by the individual contains a record pertaining to him or her;<sup>88</sup>
- b. define reasonable times, places, and requirements for authenticating the identity of an individual who requests his or her record or information pertaining to him or her before the agency makes the record or information available to the individual (more rigorous authentication procedures may be required for more sensitive records);<sup>89</sup>
- c. establish procedures whereby an individual can be notified at his or her request how the individual can gain access to any record pertaining to him or her in the system, including special procedures, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him or her;<sup>90</sup>
- d. establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to him or her, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his or her rights under the Privacy Act;<sup>91</sup> and
- e. establish fees to be charged, if any, to any individual for making copies of his or her record, excluding the cost of any search for and review of the record.<sup>92</sup>

Agencies shall submit proposed and final Privacy Act implementation rules to OMB if those rules are subject to OMB review under Executive Order 12866, *Regulatory Planning and*

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<sup>86</sup> See *id.* § 552a(f).

<sup>87</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,966 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>88</sup> See 5 U.S.C. § 552a(f)(1).

<sup>89</sup> See *id.* § 552a(f)(2).

<sup>90</sup> See *id.* § 552a(f)(3).

<sup>91</sup> See *id.* § 552a(f)(4).

<sup>92</sup> See *id.* § 552a(f)(5).

Review,<sup>93</sup> Executive Order 13563, *Improving Regulation and Regulatory Review*,<sup>94</sup> or other regulatory review procedures.

## 11. Privacy Act Exemption Rules

The Privacy Act includes two sets of provisions that allow agencies to claim exemptions from certain requirements in the statute.<sup>95</sup> These provisions allow agencies in certain circumstances to promulgate rules, in accordance with 5 U.S.C. § 553, to exempt a system of records from select provisions of the Privacy Act. Agencies that wish to promulgate a rule to exempt a system of records shall follow all applicable rulemaking procedures. Generally, these procedures will require agencies to publish in the *Federal Register* a proposed rule soliciting comments from the public, followed by a final rule. At a minimum, agencies' Privacy Act exemption rules shall include:

- a. The specific name(s) of any system(s) that will be exempt pursuant to the rule (the name(s) shall be the same as the name(s) given in the relevant SORN(s));<sup>96</sup>
- b. The specific provisions of the Privacy Act from which the system(s) of records is to be exempted and the reasons for the exemption (a separate reason need not be stated for each provision from which a system is being exempted, where a single explanation will serve to explain the entire exemption);<sup>97</sup> and
- c. An explanation for why the exemption is both necessary and appropriate.<sup>98</sup>

In addition to promulgating a rule, agencies wishing to claim an exemption for a system of records shall also identify the applicable exemption(s) in the relevant SORN. Whenever agencies publish a rule to claim a new or revised exemption for a system of records, the agency shall also revise the SORN pursuant to the publication requirements described in section 6 of this Circular, and report the proposal to OMB and Congress pursuant to the reporting requirements described in section 7 of this Circular.

When agencies wish to promulgate a Privacy Act exemption rule, agencies shall submit the draft rule to OMB along with the new or revised SORN(s) associated with the systems that the agency wishes to exempt (see section 7 of this Circular for information about reporting a new or modified system of records). In most cases a separate submission of the rule to OMB will not be required and OMB will review the proposed exemption rule along with the SORN. However, in

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<sup>93</sup> Exec. Order No. 12,866, 58 Fed. Reg. 51,735 (1993), available at [http://www.reginfo.gov/public/jsp/Utilities/EO\\_12866.pdf](http://www.reginfo.gov/public/jsp/Utilities/EO_12866.pdf).

<sup>94</sup> Exec. Order No. 13,563, 76 Fed. Reg. 3,821 (2011), available at [http://www.reginfo.gov/public/jsp/Utilities/EO\\_13563.pdf](http://www.reginfo.gov/public/jsp/Utilities/EO_13563.pdf).

<sup>95</sup> See 5 U.S.C. § 552a(j) and (k).

<sup>96</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,971-72 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>97</sup> See *id.*

<sup>98</sup> See *id.* at 28,971.

some exceptional cases exemption rules may also be subject to OMB's regulatory review procedures under Executive Order 12866, *Regulatory Planning and Review*,<sup>99</sup> and Executive Order 13563, *Improving Regulation and Regulatory Review*.<sup>100</sup> In such cases, OIRA will notify the agency as soon as possible regarding the appropriate review process.

It is important for agencies to recognize that Privacy Act exemptions are permissive. Even in circumstances where an agency is authorized to promulgate an exemption, the agency shall only do so if the exemption is necessary and consistent with established policies.<sup>101</sup> Moreover, while the Privacy Act allows agencies to promulgate exemptions that apply at the system level, agencies shall exempt only those records in a system of records for which the exemption is necessary and appropriate.<sup>102</sup> In cases where it is necessary to maintain exempt and non-exempt records in a single system of records, agencies shall only exempt the records for which the exemption is necessary and appropriate.<sup>103</sup>

Agencies may not exempt any system of records from any provision of the Privacy Act until all of the applicable reporting and publication requirements have been met.

## 12. Privacy Act Reviews

OMB Circular A-130<sup>104</sup> outlines privacy requirements that apply to the information system development life cycle. Because all information in systems of records is part of one or more information systems,<sup>105</sup> many of the requirements in Circular A-130 apply to systems of records. For example, agencies are required to select, implement, and assess privacy controls<sup>106</sup> and develop privacy plans<sup>107</sup> for information systems. In addition, agencies are required to establish and maintain an agency-wide privacy continuous monitoring (PCM) program,<sup>108</sup> based on a

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<sup>99</sup> Exec. Order No. 12,866, 58 Fed. Reg. 51,735 (1993), available at [http://www.reginfo.gov/public/jsp/Utilities/EO\\_12866.pdf](http://www.reginfo.gov/public/jsp/Utilities/EO_12866.pdf).

<sup>100</sup> Exec. Order No. 13,563, 76 Fed. Reg. 3,821 (2011), available at [http://www.reginfo.gov/public/jsp/Utilities/EO\\_13563.pdf](http://www.reginfo.gov/public/jsp/Utilities/EO_13563.pdf).

<sup>101</sup> See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,972 (July 9, 1975), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation\\_guidelines.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf).

<sup>102</sup> See *id.* at 28,971.

<sup>103</sup> See *id.*

<sup>104</sup> OMB Circular No. A-130, Managing Information as a Strategic Resource (July 28, 2016), available at <https://www.whitehouse.gov/sites/default/files/omb/assets/OMB/circulars/a130/a130revised.pdf>.

<sup>105</sup> The term "information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information. 44 U.S.C. § 3502(8). The term "information resources" means information and related resources, such as personnel, equipment, funds, and information technology. 44 U.S.C. § 3502(6).

<sup>106</sup> A privacy control is an administrative, technical, or physical safeguard employed within an agency to ensure compliance with applicable privacy requirements and manage privacy risks.

<sup>107</sup> A privacy plan is a formal document that details the privacy controls selected for an information system or environment of operation that are in place or planned for meeting applicable privacy requirements and managing privacy risks, details how the controls have been implemented, and describes the methodologies and metrics that will be used to assess the controls.

<sup>108</sup> A PCM program is an agency-wide program that maintains ongoing awareness of threats and vulnerabilities that may pose privacy risks; monitors changes to information systems and environments of operation that create, collect, use, process, store, maintain, disseminate, disclose, or dispose of personally identifiable information; and conducts

written PCM strategy.<sup>109</sup> The requirement to establish and maintain a PCM program has replaced the prior OMB requirement for agencies to conduct annual Privacy Act reviews.

During the development of an information system, agencies shall select, implement, and assess privacy controls that allow the agency to ensure continued compliance with all applicable requirements in the Privacy Act and related OMB guidance. Furthermore, agencies shall monitor and assess privacy controls selected for an information system on an ongoing basis. This includes assessing the effectiveness of the privacy controls, documenting changes to the information system, analyzing the privacy impact associated with the changes, and reporting the state of the information system to appropriate agency officials. The type, rigor, and frequency of control assessments shall be sufficient to account for risks that change over time based on changes in the threat environment, agency missions and business functions, personnel, technology, or environments of operation.

Agencies shall design their privacy control selection process to include privacy controls that allow the agency to ensure compliance with applicable requirements in the Privacy Act and related OMB guidance. At a minimum, the controls selected for an information system that contains information in a system of records shall address the following elements:

- a. **Minimization.** Agencies shall ensure that no system of records includes information about an individual that is not relevant and necessary to accomplish a purpose required by statute or executive order.
- b. **Systems of Records Notices.** Agencies shall ensure that all SORNs remain accurate, up-to-date, and appropriately scoped (see section 6(h) of this Circular for information about the scope of a system of records); that all SORNs are published in the *Federal Register*; that all SORNs include the information required by this Circular; and that all significant changes to SORNs have been reported to OMB and Congress (see section 7 of this Circular for information about reporting a modified system of records).
- c. **Routine Uses.** Agencies shall ensure that all routine uses remain appropriate and that the recipient's use of the records continues to be compatible with the purpose for which the information was collected (see section 6(k) of this Circular for information about routine uses).
- d. **Privacy Act Exemptions.** Agencies shall ensure that each exemption claimed for a system of records pursuant to 5 U.S.C. § 552a(j) and (k) remains appropriate and necessary (see section 11 of this Circular for information about Privacy Act exemptions).

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privacy control assessments to verify the continued effectiveness of all privacy controls selected and implemented at an agency across the agency risk management tiers to ensure continued compliance with applicable privacy requirements and manage privacy risks.

<sup>109</sup> A PCM strategy is a formal document that catalogs the available privacy controls implemented at an agency across the agency risk management tiers and ensures that the controls are effectively monitored on an ongoing basis by assigning an agency-defined assessment frequency to each control that is sufficient to ensure compliance with applicable privacy requirements and to manage privacy risks.

- e. **Contracts.** Agencies shall ensure that the language of each contract that involves the creation, collection, use, processing, storage, maintenance, dissemination, disclosure, or disposal of information that identifies and is about individuals, is sufficient and that the applicable requirements in the Privacy Act and OMB policies are enforceable on the contractor and its employees (see section 6(j) of this Circular for information about systems of records operated by contractors).
- f. **Privacy Training.** Agencies shall ensure that the agency's training practices are sufficient and that agency personnel understand the requirements of the Privacy Act, OMB guidance, the agency's implementing regulations and policies, and any job-specific requirements.

### **13. Annual FISMA Privacy Review and Report**

The Privacy Act originally required the President to submit a biennial report to Congress describing the administration of the statute. However, this requirement was subsequently repealed.<sup>110</sup> In place of the biennial Privacy Act report, OMB now reports to Congress on agencies' compliance with privacy requirements through the annual Federal Information Security Modernization Act of 2014 (FISMA) report to Congress.<sup>111</sup> Each year, OMB issues guidance instructing each Senior Agency Official for Privacy to review the administration of the agency's privacy program and report compliance data to OMB. OMB uses the reports from agencies to develop its annual FISMA report to Congress.

### **14. Annual Matching Activity Review and Report**

At the end of each calendar year, the Data Integrity Board of each agency that has participated in a matching program during the year shall conduct a review of that year's matching programs and submit a report to the head of the agency and to OMB.<sup>112</sup> The report for the preceding calendar year shall be submitted to OMB at [privacy-oira@omb.eop.gov](mailto:privacy-oira@omb.eop.gov) by June 1 and posted on the agency's website at [www.\[agency\].gov/privacy](http://www.[agency].gov/privacy) (see section 15 of this Circular for information about agency website posting requirements).

The Data Integrity Board's annual matching activity report shall include the following elements:

- a. Current information about the composition of the Data Integrity Board, including:
  - (1) a list of the names and positions of the members of the Data Integrity Board;
  - (2) the name and contact information of the Data Integrity Board's secretary; and
  - (3) any changes in membership or structure of the Data Integrity Board that occurred during the year.

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<sup>110</sup> See 31 U.S.C. § 1113 note.

<sup>111</sup> See 44 U.S.C. §§ 3551-3558.

<sup>112</sup> See 5 U.S.C. § 552a(u)(3)(D).

- b. A list of each matching program in which the agency participated during the year. For each matching program, the report shall include:
  - (1) a brief description of the matching program, including the names of all participating Federal and non-Federal agencies;
  - (2) links to the matching notice and matching agreement posted on the agency's website at [www.\[agency\].gov/privacy](http://www.[agency].gov/privacy);
  - (3) an account of whether the agency has fully adhered to the terms of the matching agreement;
  - (4) an account of whether all disclosures of agency records for use in the matching program continue to be justified; and
  - (5) an indication of whether a cost-benefit analysis was performed, the results of the cost-benefit analysis, and an explanation of why the agency proceeded with any matching program for which the results of the cost-benefit analysis did not demonstrate that the program is likely to be cost effective.
- c. For each matching program for which the Data Integrity Board waived the requirement for a cost-benefit analysis, the reasons for the waiver.
- d. A description of any matching agreement that the Data Integrity Board disapproved and the reasons for the disapproval.
- e. A description of any violations of matching agreements that have been alleged or identified, and a discussion of any action taken in response.

The Data Integrity Board's annual matching activity report may also include a review of any agency matching activities that are not matching programs.<sup>113</sup>

## 15. Agency Website Posting

Agencies shall maintain a central resource page dedicated to their privacy program on their principal website at [www.\[agency\].gov/privacy](http://www.[agency].gov/privacy). At a minimum, agencies shall include the following materials related to the Privacy Act on their central privacy program page:

- a. **System of records notices.** Agencies shall list and provide links to complete, up-to-date versions of all agency SORNs. This requires agencies to provide the following:
  - (1) A list of all of the agency's systems of records;

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<sup>113</sup> See *id.* § 552a(u)(3)(H).

- (2) Citations and links to all *Federal Register* notices that comprise the SORN for each system of records; and
- (3) For any SORNs that are comprised of multiple *Federal Register* notices, an unofficial consolidated version of the SORN that describes the current system of records and allows members of the public to view the SORN in its entirety in a single location.

The requirement for agencies to provide links to complete, up-to-date versions of SORNs on the agency's privacy program page does not replace the Privacy Act's statutory requirement for agencies to publish SORNs in the *Federal Register*. Notice in the *Federal Register* of the establishment or modification of a system of records will continue to serve as the agency's official notice (see section 6 of this Circular for information about publishing SORNs).

- b. ***Matching notices and agreements.*** Agencies shall list and provide links to up-to-date matching notices and agreements<sup>114</sup> for all active matching programs in which the agency participates (see section 8 of this Circular for information about publishing matching notices).
- c. ***Exemptions to the Privacy Act.*** Agencies shall provide citations and links to the final rules published in the *Federal Register* that promulgate each Privacy Act exemption claimed for their systems of records (see section 11 of this Circular for information about Privacy Act exemption rules).
- d. ***Privacy Act implementation rules.*** Agencies shall list and provide links to all Privacy Act implementation rules promulgated pursuant to 5 U.S.C. § 552a(f) (see section 10 of this Circular for information about Privacy Act implementation rules).
- e. ***Instructions for submitting a Privacy Act request.*** Agencies shall provide instructions in clear and plain language for individuals who wish to request access to or amendment of their records pursuant to 5 U.S.C. § 552a(d).

This is not an exhaustive list of the materials that agencies are required to include on their central privacy program page. Agencies shall refer to other OMB guidance documents to understand all website posting requirements.

## 16. Government-wide Responsibilities

- a. ***General.*** The Privacy Act places principal responsibility for compliance with its provisions on Federal agencies. The head of each agency shall designate a Senior Agency Official for Privacy who has agency-wide responsibility for privacy, including implementation of privacy protections; compliance with Federal laws, regulations, and policies relating to privacy; management of privacy risks at the agency; and a central policy-making role in the agency's

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<sup>114</sup> 5 U.S.C. § 552a(o)(2)(A)(ii) provides that a copy of each matching agreement "shall . . . be available upon request to the public."

development and evaluation of legislative, regulatory, and other policy proposals. The head of each agency shall also ensure that the Senior Agency Official for Privacy has the necessary resources to carry out his or her responsibilities. At the discretion of the Senior Agency Official for Privacy and consistent with applicable law, other qualified agency personnel may perform particular functions that are assigned to the Senior Agency Official for Privacy in this Circular.

- b. ***Office of Management and Budget.*** The Director of OMB will:
  - (1) Issue guidelines and directives to the agencies to implement the Privacy Act.
  - (2) Oversee the agencies' implementation of the Privacy Act.
  - (3) Assist the agencies, at their request, in implementing their Privacy Act programs.
  - (4) Review agencies' proposals pursuant to 5 U.S.C. § 552a(r).
- c. ***Department of Commerce.*** The Secretary of Commerce shall, consistent with guidelines issued by OMB, develop and issue standards and guidelines for ensuring the security of information protected by the Privacy Act in Federal information systems.
- d. ***Federal Acquisition Regulations Council.*** The Federal Acquisition Regulations Council shall, consistent with guidelines issued by OMB, ensure that instructions are issued on what agencies must do in order to comply with the requirements of 5 U.S.C. § 552a(m) when contracting for the operation of a system of records to accomplish an agency purpose.
- e. ***Office of Personnel Management.*** The Director of the Office of Personnel Management shall, consistent with guidelines issued by OMB:
  - (1) Develop and maintain government-wide standards and procedures for civilian personnel information processing and recordkeeping directives to ensure compliance with the Privacy Act.
  - (2) Develop and conduct Privacy Act training programs. The assignment of this responsibility to the Office of Personnel Management does not affect the responsibility of individual agency heads for developing and conducting training programs tailored to the specific needs of their own personnel.
- f. ***National Archives and Records Administration.*** The Archivist of the United States shall, consistent with guidelines issued by OMB:
  - (1) Issue instructions on the format of the agency notices and rules required to be published under the Privacy Act.

- (2) Compile and post on the *Federal Register* website a list of published agency SORNs that are in effect and a list of the Privacy Act implementation rules promulgated under 5 U.S.C. § 552a(f).
- (3) Issue procedures governing the transfer of records to Federal Records Centers for storage, processing, and servicing, pursuant to 44 U.S.C. § 3103. For purposes of the Privacy Act, such records are considered to be maintained by the agency that deposited them. The Archivist may only disclose deposited records according to the access rules established by the agency that deposited them.
- (4) Review and approve agencies' proposed record retention schedules associated with each new system of records.

## **17. Effectiveness**

This Circular is effective upon issuance. However, agencies need not immediately revise or republish their system of records notices, matching notices/agreements, or Privacy Act statements or regulations to comport with the requirements of this Circular. Rather, agencies may make such revisions on an ongoing basis as they establish or modify any systems of records, matching programs, information collections, or Privacy Act regulations.

This Circular is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

## **18. Inquiries**

All inquiries regarding this Circular should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. Telephone: (202) 395-3785. Email: [privacy-oira@omb.eop.gov](mailto:privacy-oira@omb.eop.gov).

## Appendix I – Summary of Key Requirements

The following tables provide a general summary of the reporting, publication, review, and agency website posting requirements discussed in this Circular. The tables only include the specific requirements referenced in this Circular; they do not provide a complete list of the requirements in these areas. For more detailed explanations of these requirements, agencies shall consult the Privacy Act, the corresponding sections of this Circular, and additional OMB guidance.

### *Federal Register* Publication Requirements

<b>Publication</b>	<b>Description</b>	<b>Timing</b>	<b>Citation(s)</b>
System of Records Notices	Agencies shall publish a notice in the <i>Federal Register</i> describing the existence and character of a new or significantly modified system of records. Agencies shall also publish a notice of rescindment when the agency stops maintaining a system of records.	A new or revised SORN is effective upon publication in the <i>Federal Register</i> , with the exception of any new or modified routine uses, which require a minimum of 30 days after publication in the <i>Federal Register</i> before they can become effective.	5 U.S.C. § 552a(e)(4); section 6 of this Circular.
Matching Notices	Agencies shall publish a notice in the <i>Federal Register</i> describing an established, re-established, or significantly modified matching program.	A new or revised matching notice is not effective until at least 30 days after its publication in the <i>Federal Register</i> .	5 U.S.C. § 552a(e)(12); section 8 of this Circular.
Privacy Act Implementation Rules	Agencies shall promulgate rules to implement the provisions of the Privacy Act.	Agencies must publish a final rule before the rule is effective.	5 U.S.C. § 552a(f); section 10 of this Circular.
Privacy Act Exemption Rules	In certain circumstances, agencies may promulgate a rule to exempt a system of records from certain requirements of the Privacy Act.	Agencies must publish a final rule before the exemption is effective.	5 U.S.C. § 552a(j)-(k); section 11 of this Circular.

### Reporting Requirements

<b>Report</b>	<b>Description</b>	<b>Timing</b>	<b>Recipient(s)</b>	<b>Citation(s)</b>
Privacy Act Implementation and Exemption Rules	Agencies shall submit Privacy Act rules to OMB under applicable regulatory review procedures and as part of a	Agencies shall provide proposed and/or final rules before publication and consult OMB	OMB (via ROCIS system).	5 U.S.C. § 552a(f), (j)-(k); Executive Orders 12866 and 13563; sections 10 and 11 of this Circular.

	proposal to establish or significantly modify a system of records.	regarding applicable review procedures.		
Report of New or Significantly Modified System of Records	Agencies shall report any proposal to establish or significantly modify a system of records.	Agencies shall submit reports at least 30 days prior to submission of the notice to the <i>Federal Register</i> .	OMB (via ROCIS system) and Congress (via mail).	5 U.S.C. § 552a(r); section 7 of this Circular.
Report of New or Significantly Modified Matching Program	Agencies shall report any proposal to establish, re-establish, or significantly modify a matching program.	Agencies shall submit reports at least 30 days prior to submission of the notice to the <i>Federal Register</i> .	OMB (via ROCIS system) and Congress (via mail).	5 U.S.C. § 552a(r); section 9 of this Circular.
Annual Matching Activity Report	Agencies' Data Integrity Boards shall submit a report describing any matching programs that occurred during the calendar year.	Agencies shall submit the annual report for the preceding calendar year to OMB by June 1.	OMB (via email to <a href="mailto:privacy-oira@omb.eop.gov">privacy-oira@omb.eop.gov</a> ) and the head of the agency.	5 U.S.C. § 552a(u)(3)(D); section 14 of this Circular.
Annual FISMA Privacy Report	The Senior Agency Official for Privacy shall report privacy compliance information to OMB as part of the annual FISMA reporting process.	Agencies shall refer to OMB's annual FISMA guidance for reporting instructions.	OMB (see OMB's annual FISMA guidance for reporting instructions).	44 U.S.C. §§ 3551-3558; section 13 of this Circular.

### Agency Website Posting Requirements

Posting	Description	Location	Citation(s)
Compilation of agencies' system of records notices and Privacy Act implementation rules	The Office of the Federal Register shall post a compilation of agencies' system of records notices and Privacy Act implementation rules.	The website of the <i>Federal Register</i> .	5 U.S.C. § 552a(f).
System of Records Notices	Agencies shall list and provide links to complete, up-to-date versions of all agency SORNs.	<a href="http://www.[agency].gov/privacy">www.[agency].gov/privacy</a>	5 U.S.C. § 552a(e)(4); section 15 of this Circular.
Matching Notices and Agreements	Agencies shall list and provide links to up-to-date matching notices and agreements for all active matching programs.	<a href="http://www.[agency].gov/privacy">www.[agency].gov/privacy</a>	5 U.S.C. § 552a(o), (r); section 15 of this Circular.
Privacy Act Exemptions	Agencies shall provide citations and links to all	<a href="http://www.[agency].gov/privacy">www.[agency].gov/privacy</a>	5 U.S.C. § 552a(j)-(k); section 15 of this Circular.

	Privacy Act exemption rules.		
Privacy Act Implementation Rules	Agencies shall list and provide links to all Privacy Act implementation rules.	www.[agency].gov/privacy	5 U.S.C. § 552a(f); section 15 of this Circular.
Instructions for Submitting a Privacy Act Request	Agencies shall provide instructions for individuals who wish to submit an access or amendment request.	www.[agency].gov/privacy	5 U.S.C. § 552a(d); section 15 of this Circular.

## Agency Review Requirements

Review	Description	Timing	Reviewer	Citation(s)
Minimization – Continuous Monitoring	Agencies shall ensure that no system of records includes information about an individual that is not relevant and necessary to accomplish a purpose required by statute or executive order.	Agencies shall perform assessments of privacy controls with a frequency sufficient to ensure compliance and manage risks.	Senior Agency Official for Privacy	5 U.S.C. § 552a(e)(1); section 12 of this Circular.
System of Records Notices – Continuous Monitoring	Agencies shall ensure that all SORNs remain accurate, up-to-date, and appropriately scoped; that all SORNs are published in the <i>Federal Register</i> ; that all SORNs include the information required by this Circular; and that all significant changes to SORNs have been reported to OMB and Congress.	Agencies shall perform assessments of privacy controls with a frequency sufficient to ensure compliance and manage risks.	Senior Agency Official for Privacy	5 U.S.C. § 552a(e)(4); section 12 of this Circular.
Routine Uses – Continuous Monitoring	Agencies shall ensure that all routine uses remain appropriate and that the recipient’s use of the records continues to be compatible with the purpose for which the information was collected.	Agencies shall perform assessments of privacy controls with a frequency sufficient to ensure compliance and manage risks.	Senior Agency Official for Privacy	5 U.S.C. § 552a(a)(7); section 12 of this Circular.
Privacy Act Exemptions – Continuous Monitoring	Agencies shall ensure that each exemption claimed for a system of records pursuant to 5 U.S.C. § 552a(j) and (k) remains appropriate and necessary.	Agencies shall perform assessments of privacy controls with a frequency sufficient to ensure compliance and manage risks.	Senior Agency Official for Privacy	5 U.S.C. § 552a(j)-(k); section 12 of this Circular.
Contracts – Continuous Monitoring	Agencies shall ensure that the language of each contract that involves the creation, collection, use, processing, storage, maintenance, dissemination, disclosure, or disposal of information that	Agencies shall perform assessments of privacy controls with a frequency sufficient to ensure compliance and manage risks.	Senior Agency Official for Privacy	5 U.S.C. § 552a(m); section 12 of this Circular.

	identifies and is about individuals, is sufficient and that the applicable requirements in the Privacy Act and OMB policies are enforceable on the contractor and its employees.			
Privacy Training – Continuous Monitoring	Agencies shall ensure that the agency’s training practices are sufficient and that agency personnel understand the requirements of the Privacy Act, OMB guidance, the agency’s implementing regulations and policies, and any job-specific requirements.	Agencies shall perform assessments of privacy controls with a frequency sufficient to ensure compliance and manage risks.	Senior Agency Official for Privacy	5 U.S.C. § 552a(e)(9); section 12 of this Circular.
FISMA Review – Annual	The Senior Agency Official for Privacy shall review the administration of the agency’s privacy program as part of the annual FISMA reporting process.	Agencies shall refer to OMB’s annual FISMA guidance for review instructions.	Senior Agency Official for Privacy	44 U.S.C. §§ 3551-3558; section 13 of this Circular.
Review of Matching Programs – Annual	Agencies’ Data Integrity Boards shall review all matching programs in which the agency has participated during the calendar year.	Agencies’ Data Integrity Boards shall conduct the review at the end of the calendar year and report to OMB by June 1.	Agency’s Data Integrity Board	5 U.S.C. § 552a(u)(3)(B)-(C); section 14 of this Circular.
Review of Other Matching Activities – Annual	Agencies’ Data Integrity Boards may also review any agency matching activities that are not matching programs.	Agencies’ Data Integrity Boards shall conduct any review at the end of the calendar year and report to OMB by June 1.	Agency’s Data Integrity Board	5 U.S.C. § 552a(u)(3)(H); section 14 of this Circular.

## Appendix II

### Office of the Federal Register SORN Template – Full Notice

Agencies shall publish all system of records notices (SORNs) in the *Federal Register* using the appropriate format provided in the appendices to this Circular. Agencies shall use the language and section headings provided in the template and replace the language in brackets with the appropriate agency language.

Appendix II provides the Office of the Federal Register SORN template for full notices that include all of the elements that are required to be in a SORN. Agencies shall use this template when publishing a new SORN or choosing to publish a revised SORN in its entirety.

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[Name of agency]

#### Privacy Act of 1974; System of Records

**AGENCY:** [Name of agency and, if applicable, agency component].

**ACTION:** Notice of a [New/Modified] System of Records.

---

**SUMMARY:** [A plain-language description of the system].

**DATES:** [The deadline to submit comments on the proposal and the date on which any routine uses will be effective].

**ADDRESSES:** [Instructions for submitting comments on the proposal, including an email address or a website where comments can be submitted electronically].

**FOR FURTHER INFORMATION CONTACT:** [Instructions for submitting general questions about the system].

**SUPPLEMENTARY INFORMATION:** [Background information about the proposal, including a description of any changes being made to the system and the purpose(s) of the changes].

**SYSTEM NAME AND NUMBER:** [A name for the system that is unambiguous and clearly identifies the purpose or character of the system, and the number of the system].

**SECURITY CLASSIFICATION:** [An indication of whether any information in the system is classified].

**SYSTEM LOCATION:** [The address of the agency and/or component responsible for the system, as well as the address of any third-party service provider].

**SYSTEM MANAGER(S):** [The title, business address, and contact information of the agency official who is responsible for the system].

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** [The specific authority that authorizes the maintenance of the records in the system].

**PURPOSE(S) OF THE SYSTEM:** [A description of the agency's purpose(s) for maintaining the system].

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:** [The categories of individuals on whom records are maintained in the system].

**CATEGORIES OF RECORDS IN THE SYSTEM:** [The categories of records maintained in the system and, if practicable and useful for public notice, specific data elements].

**RECORD SOURCE CATEGORIES:** [The categories of sources of records in the system].

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:** [Each routine use of the records contained in the system, including the categories of users and the purpose of such use].

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:** [The policies and practices of the agency regarding the storage of records].

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:** [The policies and practices of the agency regarding retrieval of records].

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:** [The policies and practices of the agency regarding retention and disposal of records].

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:** [A description of the administrative, technical, and physical safeguards to which the system is subject].

**RECORD ACCESS PROCEDURES:** [The agency procedures whereby an individual can be notified at his or her request how he or she can gain access to any record pertaining to him or her in the system].

**CONTESTING RECORD PROCEDURES:** [The agency procedures whereby an individual can be notified at his or her request how he or she can contest the content of any record pertaining to him or her in the system].

**NOTIFICATION PROCEDURES:** [The agency procedures whereby an individual can be notified at his or her request if the system contains a record pertaining to him or her].

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:** [Any Privacy Act exemptions promulgated for the system].

**HISTORY:** [Citation(s) to the last full *Federal Register* notice that includes all of the elements that are required to be in a SORN, as well as any subsequent notices of revision].

## **Appendix III**

### **Office of the Federal Register SORN Template – Notice of Revision**

Agencies shall publish all system of records notices (SORNs) in the *Federal Register* using the format provided in the appendices to this Circular. Agencies shall use the language and section headings provided in the template and replace the language in brackets with the appropriate agency language.

Appendix III provides the Office of the Federal Register SORN template for revised notices that describe a modified system of records when the agency chooses not to publish the revised SORN in its entirety. The elements provided in the template are required to appear in any notice of a modified system of records. Elements omitted from the template shall be included in a notice of a modified system of records if there are revisions to those elements.

---

**[Name of agency]**

#### **Privacy Act of 1974; System of Records**

**AGENCY:** [Name of agency and, if applicable, agency component].

**ACTION:** Notice of a Modified System of Records.

---

**SUMMARY:** [A plain-language description of the system].

**DATES:** [The deadline to submit comments on the proposal and the date on which any routine uses will be effective].

**ADDRESSES:** [Instructions for submitting comments on the proposal, including an email address or a website where comments can be submitted electronically].

**FOR FURTHER INFORMATION CONTACT:** [Instructions for submitting general questions about the system].

**SUPPLEMENTARY INFORMATION:** [Background information about the proposal, including a description of the changes being made to the system and the purpose(s) of the changes].

**SYSTEM NAME AND NUMBER:** [A name for the system that is unambiguous and clearly identifies the purpose or character of the system, and the number of the system].

**SECURITY CLASSIFICATION:** [An indication of whether any information in the system is classified].

**SYSTEM LOCATION:** [The address of the agency and/or component responsible for the system, as well as the address of any third-party service provider].

**SYSTEM MANAGER(S):** [The title, business address, and contact information of the agency official who is responsible for the system].

...

[Agencies shall review the other elements in the full SORN template in Appendix II to this Circular and include elements for which revisions are necessary. For example, if an agency is modifying the categories of records in the system, the agency shall include that element in the notice of revision.]

...

**HISTORY:** [Citation(s) to the last full *Federal Register* notice that includes all of the elements that are required to be in a SORN, as well as any subsequent notices of revision].

## **Appendix IV**

### **Office of the Federal Register Notice of Rescindment Template**

Agencies are required to publish a notice of rescindment in the *Federal Register* whenever they stop maintaining a previously established system of records. Agencies shall publish all notices of rescindment using the format provided in Appendix IV to this Circular. Agencies shall use the language and section headings provided in the template and replace the language in brackets with the appropriate agency language.

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**[Name of agency]**

#### **Privacy Act of 1974; System of Records**

**AGENCY:** [Name of agency and, if applicable, agency component].

**ACTION:** Rescindment of a System of Records Notice.

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**SUMMARY:** [A plain-language description of the system that is being discontinued].

**DATES:** [The date on which the agency stopped or will stop maintaining the system of records].

**ADDRESSES:** [Instructions for submitting comments on the notice, including an email address or a website where comments can be submitted electronically].

**FOR FURTHER INFORMATION CONTACT:** [Instructions for submitting general questions about the discontinued system].

**SUPPLEMENTARY INFORMATION:** [Background information about the proposal, including an account of what will happen to the records that were previously maintained in the system and references to any other SORN that will pertain to the records].

**SYSTEM NAME AND NUMBER:** [The name and number of the system that is being discontinued].

**HISTORY:** [Citation(s) to the last full *Federal Register* notice that includes all of the elements that are required to be in a SORN, as well as any subsequent notices of revision].

## **Appendix V**

### **Office of the Federal Register Matching Notice Template – Full Notice**

Agencies shall publish all matching notices in the *Federal Register* using the format provided in the appendices to this Circular. Agencies shall use the language and section headings provided in the template and replace the language in brackets with the appropriate agency language.

Appendix V provides the Office of the Federal Register matching notice template for full notices that include all of the elements that are required to be in a matching notice. Agencies shall use this template when publishing a notice of the establishment or re-establishment of a matching program, or when publishing a revised matching notice in its entirety.

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**[Name of agency]**

#### **Privacy Act of 1974; Matching Program**

**AGENCY:** [Name of agency and, if applicable, agency component].

**ACTION:** Notice of a [New/Modified] Matching Program.

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**SUMMARY:** [A plain-language description of the matching program].

**DATES:** [The deadline to submit comments on the proposal, as well as the beginning and ending dates of the matching program].

**ADDRESSES:** [Instructions for submitting comments on the matching program, including an email address or a website where comments can be submitted electronically].

**FOR FURTHER INFORMATION CONTACT:** [Instructions for submitting general questions about the matching program].

**SUPPLEMENTARY INFORMATION:** [Background information about the proposal].

**PARTICIPATING AGENCIES:** [The name of the participating agency or agencies, including any non-Federal agencies].

**AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:** [The specific authority for conducting the matching program].

**PURPOSE(S):** [A plain-language description of the agency's purpose(s) for conducting the matching program].

**CATEGORIES OF INDIVIDUALS:** [The categories of individuals whose information is involved in the matching program].

**CATEGORIES OF RECORDS:** [The categories of records involved in the matching program and the specific data elements that are matched].

**SYSTEM(S) OF RECORDS:** [The names of all relevant systems of records and a citation of the system of records notices].

## **Appendix VI**

### **Office of the Federal Register Matching Notice Template – Notice of Revision**

Agencies shall publish all matching notices in the *Federal Register* using the format provided in the appendices to this Circular. Agencies shall use the language and section headings provided in the template and replace the language in brackets with the appropriate agency language.

Appendix VI provides the Office of the Federal Register matching notice template for revised notices that describe a modified matching program when the agency chooses not to publish the revised notice in its entirety. The elements provided in the template are required to appear in any notice of a modified matching program. Elements omitted from the template shall be included in a notice of a modified matching program if there are revisions to those elements.

---

**[Name of agency]**

#### **Privacy Act of 1974; Matching Program**

**AGENCY:** [Name of agency and, if applicable, agency component].

**ACTION:** Notice of a Modified Matching Program.

---

**SUMMARY:** [A plain-language description of the matching program].

**DATES:** [The deadline to submit comments on the proposal, as well as the beginning and ending dates of the matching program].

**ADDRESSES:** [Instructions for submitting comments on the proposal, including an email address or a website where comments can be submitted electronically].

**FOR FURTHER INFORMATION CONTACT:** [Instructions for submitting general questions about the matching program].

**SUPPLEMENTARY INFORMATION:** [Background information about the proposal].

**PARTICIPATING AGENCIES:** [The name of the participating agency or agencies, including any non-Federal agencies].

...

[Agencies shall review the other elements in the full matching notice template in Appendix V to this Circular and include elements for which revisions are necessary. For example, if an agency is modifying the categories of records involved in the matching program, the agency shall include that element in the notice of revision.]



# Seven Things to Know About CBO's Budgetary Treatment of Potential Changes to Fannie Mae and Freddie Mac

JULY | 2025

Fannie Mae and Freddie Mac were chartered in 1938 and 1970, respectively, as government-sponsored enterprises (GSEs) to ensure a stable supply of credit for mortgages nationwide. Government-sponsored enterprises are private companies created by federal law to fulfill a specific purpose. In the case of Fannie Mae and Freddie Mac, that purpose is to facilitate the flow of funding for home loans by purchasing mortgages from lenders, pooling them into mortgage-backed securities (MBSs), and selling the securities to investors along with a guarantee against most losses from defaults on the underlying loans.

After operating independently for decades, the two GSEs were placed in federal conservatorships in 2008. Since then, they have been controlled by the Federal Housing Finance Agency (FHFA) and effectively owned by the Department of the Treasury (for details, see Box 1 on page 3). In January 2025, the FHFA announced that it will seek comments on options to end the GSEs' conservatorships.<sup>1</sup>

This report addresses seven key issues that might arise as the Congressional Budget Office estimates the budgetary effects of potential legislation or administrative actions that could result in selling the Treasury's ownership stake in the GSEs and releasing them from government control. In keeping with its standard practices, CBO assesses the federal budgetary and economic effects of proposed policies but does not make policy recommendations.

## 1. CBO projects that the GSEs' future mortgage guarantees have a budgetary cost

An MBS created by Fannie Mae or Freddie Mac entitles its purchaser to a share of the combined mortgage payments from the pool of loans underlying the security. The GSEs guarantee that such payments will be made in full and on a timely basis—including covering missed payments if borrowers default so MBS investors are not affected. In return for providing that guarantee of payment, the GSEs receive an up-front fee when an MBS is created and a yearly fee based on the outstanding principal of the underlying mortgages. The GSEs' net income results mainly from the difference between the fees they collect and the payments they make on defaulted loans.

In most years—including every year since 2012—the amount that Fannie Mae and Freddie Mac collect in fees exceeds their costs to cover mortgage defaults. But during periods of financial stress, such as the housing crisis of the late 2000s, the cost of defaults can exceed income from fees, resulting in net losses for the GSEs. To manage those situations, the GSEs maintain reserves that they fund by selling shares of stock or by keeping earnings that would otherwise be paid to their shareholders as dividends. Those reserves are invested in liquid assets that they can sell quickly to meet payment obligations.

CBO estimates that the new mortgages Fannie Mae and Freddie Mac are projected to guarantee during the 2026–2035 period would have a total cost to the federal government of \$81.8 billion.<sup>2</sup> That baseline estimate reflects CBO's projections of the default payments and fees that would occur if current laws governing revenues

1. Federal Housing Finance Agency, "FHFA and U.S. Treasury Announce Amendments to the Preferred Stock Purchase Agreements" (news release, January 2, 2025), <https://tinyurl.com/j5wv4xv>.

2. Congressional Budget Office, *The Budget and Economic Outlook: 2025 to 2035* (January 2025), Table B-4, [www.cbo.gov/publication/60870](http://www.cbo.gov/publication/60870).

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and spending generally remained unchanged over the next 10 years. (CBO estimated that cost on a fair-value basis, which measures the market value of the GSEs' mortgage guarantees by accounting for market risk. For details, see section 4 below.)

Fannie Mae's and Freddie Mac's guarantees have a budgetary cost because, in CBO's estimation, the GSEs charge lower fees for their guarantees than private-sector investors would charge to assume the same risk. In CBO's baseline projections, that underpricing averages about 6 to 10 basis points (0.06 to 0.10 percentage points) in each year of the 2026–2035 period.<sup>3</sup> The two

3. By comparison, the GSEs' guarantee fees averaged 66 basis points per loan in 2023. See Federal Housing Finance Agency, *Fannie Mae and Freddie Mac Single-Family Guarantee Fees in 2023* (January 2025), <https://tinyurl.com/yck567pv>.

GSEs are projected to issue a total of about \$15 trillion in new guarantees during that period. With such large portfolios of mortgages, a modest underpricing of risk can result in a budgetary cost of tens of billions of dollars.

## 2. CBO treats the GSEs as if they were part of the government

In CBO's assessment, Fannie Mae and Freddie Mac are effectively part of the federal government for two reasons.<sup>4</sup> First, the FHFA gained operational control of the GSEs when it put them in conservatorships. That control was evident, for example, in March 2025, when the FHFA changed the membership of the GSEs' boards of directors. Second, the federal government gained majority ownership of the GSEs when the Treasury acquired senior preferred shares in the enterprises—and warrants to buy their common shares in the future—in exchange for agreeing to maintain their solvency (see Box 1). For those reasons, CBO's baseline budget projections account for the GSEs' operations as though they are being conducted by a federal agency.

Because CBO treats Fannie Mae and Freddie Mac as part of the federal government, it considers the costs of their mortgage guarantees to be federal costs, which are projected to increase the overall budget deficit. In the case of dividends that the GSEs sometimes pay to the Treasury on its shares, CBO treats those transactions as occurring between federal entities rather than between the public and the government (see Figure 1 on page 4, top panel).<sup>5</sup> Thus, CBO does not count those payments as income to the government and does not project that they affect the overall deficit.

If the GSEs began paying dividends to their private shareholders while remaining under federal control, CBO would treat those payments as outlays from the government to the private sector, which would increase federal spending and the deficit. Under the Administration's current policies, the GSEs do not make dividend payments to their private shareholders and are not expected to start doing so. If that changed—whether through legislation, administrative actions, or judicial

4. Congressional Budget Office, *How CBO Determines Whether to Classify an Activity as Governmental When Estimating Its Budgetary Effects* (June 2017), p. 7, [www.cbo.gov/publication/52803](http://www.cbo.gov/publication/52803).

5. Congressional Budget Office, *Accounting for Fannie Mae and Freddie Mac in the Federal Budget* (September 2018), [www.cbo.gov/publication/54475](http://www.cbo.gov/publication/54475).

## Box 1.

## The Treasury's Ownership Stake in Fannie Mae and Freddie Mac

In 2008, the federal agency that regulates Fannie Mae and Freddie Mac—the Federal Housing Finance Agency (FHFA)—placed the two government-sponsored enterprises (GSEs) in federal conservatorships because of “a substantial deterioration in the housing markets that severely damaged each Enterprise’s financial condition and left both of them unable to fulfill their missions without government intervention.”<sup>1</sup> That action put the FHFA in control of the two GSEs. At the same time, the Department of the Treasury took steps to keep the GSEs solvent. (The authority to put Fannie Mae and Freddie Mac in conservatorships and to protect them from insolvency was provided by the Housing and Economic Recovery Act of 2008.) As a result of those actions, the GSEs were able to carry out their missions throughout the 2007–2009 financial crisis and the ensuing recovery period.

The Treasury became the GSEs’ owner by signing agreements with them to keep them afloat financially in exchange for two types of financial securities: senior preferred stock and warrants. Under the preferred-stock purchase agreements, the Treasury committed to buying additional senior preferred shares in the GSEs whenever their net worth fell below zero. Preferred stock differs from common stock in that it pays fixed dividends—initially 10 percent or 12 percent under the agreements—and takes priority over common stock in receiving those dividends. (The Treasury’s senior preferred stock

also has priority over privately held preferred stock.) Dividend payments on preferred stock are akin to interest payments on debt. But unlike with interest payments, a company can put off making dividend payments on senior preferred stock without defaulting, provided that it also suspends dividend payments on all more junior classes of stock.

The warrants that the Treasury received from the GSEs give it the right to buy 79.9 percent of the GSEs’ common stock in the future at a nominal price. Unlike preferred stock, common stock typically gives shareholders voting rights and control over a company. As of April 2025, the Treasury had not exercised its warrants, which expire in September 2028.

In 2012, the preferred-stock purchase agreements were amended to require the GSEs to pay all of their net earnings to the Treasury as long as they had positive net worth. In 2019 and 2020, the Treasury changed those agreements to allow the GSEs to retain their earnings rather than pay dividends to the Treasury. That restructuring has permitted the GSEs to keep earnings that would count toward the FHFA’s capital requirements if the GSEs were released from their conservatorships and if ownership and control of them were transferred to private investors. The capital requirements are designed to reduce the likelihood that the GSEs would face financial trouble in the future. Under those requirements, the GSEs must maintain a buffer of capital that is large enough to cover their guarantee obligations, even during periods with higher-than-average default rates on mortgages.

1. Federal Housing Finance Agency, “History of Fannie Mae and Freddie Mac Conservatorships” (October 17, 2022), [www.fhfa.gov/conservatorship/history](http://www.fhfa.gov/conservatorship/history).

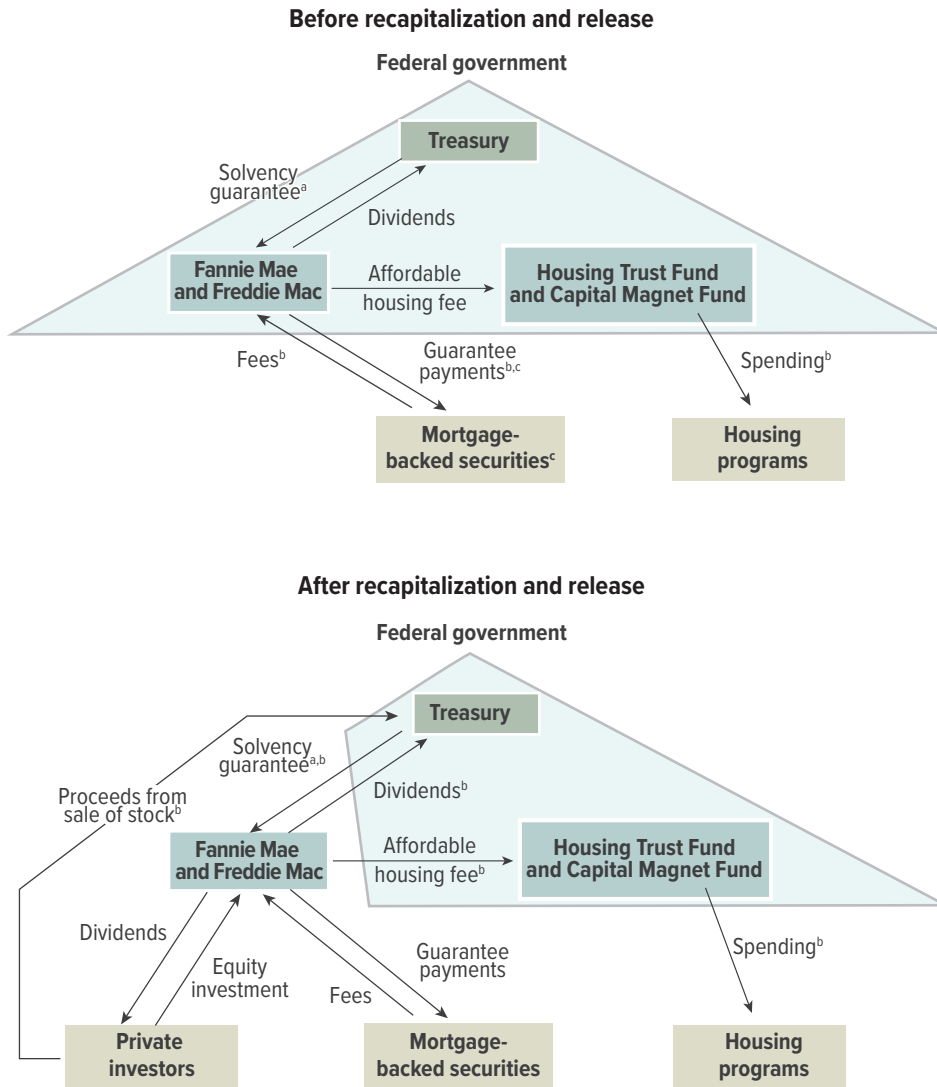
decisions—CBO’s baseline would project an increase in the deficit.

Unlike CBO, the Administration’s Office of Management and Budget (OMB) treats Fannie Mae and Freddie Mac as nongovernmental entities for budgetary purposes. OMB estimates that cash transactions between the GSEs and the Treasury affect the deficit. For example, OMB treated investments that the Treasury made in the GSEs from 2008 to 2012 as federal costs and dividends that the GSEs paid to the Treasury from 2012 to 2019 as federal income.

Also unlike CBO, OMB treats the GSEs’ mortgage guarantees as private-sector transactions that do not have an immediate budgetary impact. The budgetary effects associated with those guarantees occur in future years and depend on the GSEs’ net income. If their net income is positive and the GSEs pay dividends to the Treasury, OMB will record those dividends as receipts in the budget. If the GSEs’ net income is negative, they will not make dividend payments to the Treasury, and if their losses are severe, they may require additional federal investment because of the Treasury’s commitment to ensure their solvency.

Figure 1.

## Cash Flows to and From Fannie Mae and Freddie Mac Before and After Recapitalization and Release From Federal Control



Because the GSEs are in federal conservatorships and largely owned by the Treasury, CBO considers them part of the federal government. Thus, the dividends they pay to the Treasury on its shares are considered intragovernmental payments that have no net effect on the federal budget.

If the GSEs were released from federal control, CBO would consider them nongovernmental entities, and their financial interactions with the government would have budgetary savings or costs.

Data source: Congressional Budget Office.

GSEs = government-sponsored enterprises (specifically, Fannie Mae and Freddie Mac).

- a. The current solvency guarantee is the Treasury’s commitment to keep Fannie Mae and Freddie Mac afloat financially by purchasing more of their senior preferred shares whenever their net worth falls below zero. Policy changes could restructure that guarantee or make it implicit.
- b. Indicates cash flow between the federal government and the public.
- c. The federal credit subsidy for guaranteeing mortgage-backed securities is the difference between the present value of losses from defaults (net of recoveries) that are expected to occur over the lifetime of those securities and the present value of fees that are expected to be collected for those guarantees over their lifetime. (A present value is a single number that expresses a flow of current and future income or payments in terms of an equivalent lump sum received or paid at a specific time, such as the present.)

### 3. Releasing the GSEs from government control would result in both federal savings and federal costs

Legislation or administrative actions related to rebuilding the capital reserves of the GSEs and releasing them from their conservatorships could end federal control and ownership of the entities. That change would affect the federal budget in various ways over the typical 10-year projection period of CBO's baseline and beyond. The budgetary effects would depend on the details of the recapitalization and release policies. As an illustration, the appendix examines two hypothetical policies: one in which the Treasury would convert its senior preferred shares in the GSEs to common shares and one in which the FHFA would place the GSEs in receivership (a condition that would involve having their assets transferred to other entities).

The first policy would begin with the Treasury converting its senior preferred stock to common stock and exercising its warrants to buy additional common stock. After that, Fannie Mae and Freddie Mac would sell more common shares to the public to raise cash to help them meet the FHFA's capital requirements, a precondition for being released from their conservatorships (see Box 1 on page 3). After the GSEs were released, the Treasury would sell its holdings of their common stock to the public over time.

In the second policy, the FHFA would end the conservatorships by putting Fannie Mae and Freddie Mac in receivership, creating a new corporation to replace each GSE, and transferring the GSEs' assets and liabilities to those entities. The new corporations would sell common stock to the public and keep some of the proceeds from those sales to meet the FHFA's capital requirements. The remaining proceeds would be allocated to the former GSEs' shareholders on the basis of their seniority.<sup>6</sup>

#### Sources of Budgetary Savings From Recapitalization and Release

Ending federal control of Fannie Mae and Freddie Mac would produce budgetary savings, primarily because it

would eliminate federal subsidies for future mortgage guarantees that are priced below market rates, in CBO's estimation. Other sources of budgetary savings would be receipts from selling the Treasury's shares to private investors, which would be offset by a corresponding cost from reductions in future profits, and receipts from fees paid by the GSEs to federal affordable housing funds.

- **Elimination of subsidies on future mortgage guarantees.** Under either of CBO's illustrative scenarios, after the GSEs' release, their future mortgage guarantees would be private transactions rather than government commitments. The federal government would no longer be responsible for guaranteeing MBSs at prices below their market value. That change would reduce the deficit by eliminating the budgetary cost that CBO assigns to future guarantees in its baseline projections.
- **Payments to the Treasury.** Under either of CBO's illustrative scenarios, recapitalization and release of Fannie Mae and Freddie Mac would involve the Treasury selling its shares in the GSEs to private investors. Under either scenario, the payments from private investors in the newly independent GSEs to the Treasury would reduce the deficit by bringing in receipts to the federal government. The size of the payments would depend on the details of the policy. CBO would recognize the significant cash inflows that the government would receive from the sale of shares in the newly independent GSEs. In such a market transaction, the amount the Treasury would receive for those shares would match the market valuation of the GSEs' reduced future profits, resulting in no net budgetary effect, in CBO's assessment.
- **Reclassification of affordable housing fees.** The fees that the GSEs pay to the Housing Trust Fund and the Capital Magnet Fund to increase and preserve the supply of affordable housing—currently classified as intragovernmental transfers—would be reclassified as receipts to the government (see Figure 1 on page 4, bottom panel).<sup>7</sup> As government receipts, they would reduce the deficit.

6. The proceeds from the sale of common stock would go first to the Treasury, up to a limit equal to the liquidation preference of the senior preferred shares (the amount of money the Treasury is eligible to receive before more junior investors are paid). Any remaining proceeds would go to the private holders of junior preferred shares, up to the value of their liquidation preference, and then to the holders of common stock.

7. Congressional Budget Office, *How the Housing Trust Fund and Capital Magnet Fund Support Affordable Housing* (November 2022), [www.cbo.gov/publication/58427](http://www.cbo.gov/publication/58427).

## Sources of Budgetary Costs

### From Recapitalization and Release

Ending federal control of the GSEs would also create costs. For example, the government would no longer receive the income that Fannie Mae and Freddie Mac earn from their existing mortgage guarantees and from their portfolios of assets. (Existing mortgage guarantees, those in place before the GSEs' release, are projected to generate net income for the government in future years because the risk of default by borrowers tends to decline over time, while guarantee fees continue to be paid at a fixed rate. In contrast, future mortgage guarantees, those made after the GSEs' release, would no longer be backed by the government or be included in the federal budget.) Another possible source of budgetary costs is that any commitments by the Treasury to maintain the solvency of the GSEs would no longer be considered intragovernmental transfers. The effects of those costs on the deficit would be largely offset by the payments to the Treasury for the value of its shares in the GSEs.

- **Loss of income from existing mortgage guarantees.** In CBO's assessment, the GSEs' mortgage guarantees create costs for the government in the early years of repayment on the loans (when default rates tend to be highest) and create savings in later years (when default rates tend to decline). Having incurred costs in the early years of existing mortgage guarantees, on average, the government is projected to benefit from the savings on those existing guarantees in later years, under current law. CBO incorporated all of the projected lifetime costs and savings associated with outstanding mortgage guarantees in its budget estimates when the guarantees were made, consistent with its treatment of other federal credit programs (see the next section for details). Any changes to those cash flows would be reflected in a cost estimate for proposed legislation. If the GSEs were recapitalized and released, the income from existing guarantees would go to the GSEs' private shareholders rather than to the government, a change that would increase the deficit.
- **Loss of income from other assets.** Ending federal control would cause the government to lose net income from the GSEs' other assets as well as from its mortgage guarantees. In 2019 and 2020, the Treasury changed its agreements with the GSEs to allow them to keep their earnings rather than pay dividends to the Treasury. Those earnings have been invested in a mix of assets that earn interest and other forms of

income. Under CBO's budgetary treatment, that income is received by the government. If the GSEs were reclassified as private entities, the government would no longer earn that income, a change that would increase the deficit.<sup>8</sup>

- **The Treasury's commitments to keep the GSEs solvent.** The Treasury's commitments to maintain the solvency of the GSEs are currently viewed as intragovernmental and thus as not having budgetary costs. If federal control of the GSEs ended, such commitments by the Treasury would be reclassified as transactions with private entities and would result in costs. Under CBO's illustrative scenarios, the Treasury would continue to guarantee the GSEs' solvency but would charge a commitment fee (see the appendix). Depending on its size, such a fee could partly or wholly offset the cost of the commitment. If the Treasury charged a fee that was less than the cost of its backstop commitment, it would be providing a federal subsidy. If the Treasury charged more for its backstop than private investors would charge to provide a similar amount of capital support, the federal backstop would reduce the deficit.

### Net Budgetary Effects

The budgetary savings from eliminating federal subsidies on the GSEs' future mortgage guarantees would be largely offset by costs from recapitalization and release under a wide range of policy approaches. The reason is that the amount investors would pay for the Treasury's shares in the GSEs would depend on the same policies that would determine the size of all other savings and costs. For example, investors would pay for the GSEs' existing mortgage guarantees and other assets, and that payment would be shown in the budget as a savings. But after the sale of the Treasury's ownership stake, the government would no longer receive income from those assets. Those two budgetary effects from recapitalization and release—receipts from selling the government's

8. Similar to its treatment of mortgage guarantees, CBO reflects the costs or savings from the GSEs' assets in its baseline on a fair-value basis (see section 4 below). When the Treasury revised its agreements with the GSEs to allow them to retain interest and other income from those assets, CBO's baseline accounted for the projected lifetime income to the federal government from the GSEs' ownership of the assets when the policy change occurred rather than when the income was projected to be received over time. Because the value of those earnings has already been recorded in CBO's baseline, the future cash flows from those earnings are not included in the baseline—but a loss of that income would be reflected in a cost estimate.

shares and forgone revenues from the GSEs' assets—would generally be estimated as offsetting each other.

Similarly, the Treasury's commitments involve costs, but they increase the projected profits of the GSEs. Those higher projected profits lead to a higher sale price for the Treasury's shares in the GSEs. Eliminating the Treasury's commitments would reduce costs and the profitability of the GSEs, reducing that sale price. Requiring the GSEs to pay fees to the Treasury for its solvency commitment would generate budgetary savings but also reduce the GSEs' profitability and the sale price for the Treasury's shares.

#### 4. CBO projects the budgetary effects of the GSEs' mortgage guarantees on a fair-value basis

Since 2008, CBO, in consultation with the House and Senate Committees on the Budget, has used fair-value accounting to measure the cost of the GSEs' new mortgage guarantees. That approach estimates the market prices that private entities without a backstop from the Treasury would charge to make the same mortgage guarantees. (The fair value of a liability, such as a loan guarantee, is the price that would have to be paid in an orderly market to induce a private financial institution to assume the liability.)

Fair-value estimates are calculated on an accrual basis, meaning that the full costs projected to result from a cohort of mortgage guarantees over their lifetime are recorded in the year in which the guarantees are made. That approach differs from the cash basis used for most federal programs in the budget. Cash-based accounting records a program's spending and revenues in the years when they occur.

The fair-value accounting that CBO uses for the GSEs in conservatorship also differs from the approach used for other federal programs that guarantee mortgages. Those programs are accounted for using the procedures specified in the Federal Credit Reform Act of 1990 (FCRA). Both FCRA and fair-value estimates are accrual measures, but fair-value estimates incorporate market risk—the risk that adverse movements in overall market conditions will reduce the value of a financial asset.<sup>9</sup> FCRA estimates do not incorporate market risk.

9. Market risk is the component of financial risk that is associated with the overall performance of the economy rather than with the performance of a specific investment. It results from

CBO projects that Fannie Mae and Freddie Mac will issue a total of \$15.2 trillion in new loan guarantees from 2026 to 2035. In CBO's January 2025 baseline, those guarantees are projected to have a total cost to the government of \$81.8 billion on a fair-value basis.<sup>10</sup> That cost occurs because the GSEs charge slightly lower fees than fully private insurers would charge for the same guarantees, in CBO's view. As a result, on a fair-value basis, the net present value of the guarantee fees that the GSEs charge is less than the net present value of the guarantee obligations for which they are liable.<sup>11</sup> Ending federal control of the GSEs would eliminate that cost from the budget.

CBO's baseline incorporates the projected lifetime costs or savings to the federal government from the GSEs' guarantees and assets when the guarantees are made or the assets are acquired, rather than when their various cash flows take place. If any legislation or administrative actions changed the cash flows associated with existing guarantees or assets, CBO would estimate how those changes would affect the deficit on a fair-value basis.

Specifically, CBO would calculate the net present value of the future cash flows for existing guarantees or assets under both current law and the proposed change and would record the difference between those values as spending or revenues in the year the action modifying the guarantees or assets occurred. For example, if legislation would require the GSEs to modify the terms of mortgages in a way that increased the cost of their

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shifts in macroeconomic conditions, such as productivity and employment, and from changes in expectations about future macroeconomic conditions. For more information, see Congressional Budget Office, *Measuring the Cost of Government Activities That Involve Financial Risk* (March 2021), [www.cbo.gov/publication/56778](http://www.cbo.gov/publication/56778).

10. To facilitate comparison with other federal credit programs, CBO also produces FCRA estimates of the annual costs of Fannie Mae's and Freddie Mac's activities. See Congressional Budget Office, *Estimates of the Cost of Federal Credit Programs in 2025* (August 2024), [www.cbo.gov/publication/60517](http://www.cbo.gov/publication/60517).

11. A present value is a single number that expresses a flow of current and future income or payments in terms of an equivalent lump sum received or paid at a specific time, generally the present. The present value of future cash flows is determined by applying a discount rate, which reflects the time value of money and the risk associated with those cash flows. That rate is used to convert future cash flows into their equivalent value at a given time. For details, see Congressional Budget Office, *How CBO Uses Discount Rates to Estimate the Present Value of Future Costs or Savings* (October 2024), [www.cbo.gov/publication/60284](http://www.cbo.gov/publication/60284).

existing guarantees, that legislation would have a budgetary cost that would be recorded in the year the modification would take place.

## 5. CBO's baseline budget projections and cost estimates incorporate administrative and judicial actions

CBO's cost estimates compare the projected budgetary effects of proposed legislation with a baseline that incorporates the effects of recent administrative and judicial actions, including any actions that affect Fannie Mae and Freddie Mac.<sup>12</sup> When CBO accounts for recent administrative and judicial actions in its baseline and cost estimates, it must assess the likelihood, timing, and resulting budgetary impact of those actions.

If proposed legislation would require the FHFA and the Treasury to take certain actions, CBO's estimate of the legislation's costs would depend on whether the budgetary effects of those actions were already included in the baseline:

- If the Administration had not yet taken those actions, the legislation would affect the deficit.
- If the Administration had already taken those actions in a clear, public, and official way, CBO might estimate that the legislation would have no effect on the deficit.
- If the Administration had proposed those actions—for example, by publishing a notice of proposed rulemaking in the *Federal Register* or announcing a specific plan—CBO's baseline would incorporate 50 percent of the budgetary effects, and CBO would estimate that the legislation would have the remaining 50 percent of those effects. That treatment, which is consistent with how CBO treats other proposed rules, reflects uncertainty about whether a proposed rule will be finalized and what form the final rule might take. (Restructuring the Treasury's shares in the GSEs and ending the conservatorships would not necessarily require proposing a new rule.)

12. Congressional Budget Office, *CBO Explains How It Incorporates Administrative and Judicial Actions When Updating Its Baseline Projections and Preparing Cost Estimates* (December 2024), [www.cbo.gov/publication/60846](http://www.cbo.gov/publication/60846).

## 6. CBO would incorporate the cost of the Treasury's implicit or explicit commitments to the GSEs in cost estimates

If Fannie Mae and Freddie Mac were released from federal ownership, they might still benefit from a federal guarantee of their solvency, whether implicit or explicit. Before their conservatorships, the GSEs benefited from an implicit federal guarantee.<sup>13</sup> Investors who bought mortgage-backed securities from the GSEs were willing to accept lower yields on them because they perceived that the government would make sure they received payment in a timely fashion if the GSEs faced insolvency—even though at that time any assistance required a future act of Congress. That perception turned out to be accurate. When the GSEs' financial condition deteriorated in 2008, lawmakers enacted the Housing and Economic Recovery Act, which authorized the Treasury to provide financial assistance to the GSEs.

Once they were released from federal ownership, Fannie Mae and Freddie Mac could benefit from an explicit commitment if, for example, the commitments in their 2008 agreements with the Treasury remained in effect or if those commitments were replaced by another mechanism. The current commitment requires the Treasury to invest in the GSEs when their net worth falls below zero. In the past, Members of Congress have proposed different types of commitments, such as guaranteeing to cover investors against losses on MBSs above a threshold level that would be likely to occur only in catastrophic circumstances rather than guaranteeing the solvency of the GSEs themselves. Without an explicit commitment, the GSEs would probably benefit from an implicit federal guarantee—especially if they continued to be linchpins of the housing finance system and retained the advantages of their federal charters (such as exemption from state and local taxes).

If CBO no longer considered the GSEs to be government entities, it would incorporate the estimated cost of any explicit federal guarantee in its future cost estimates and baseline projections. To estimate that cost, CBO would assess the risk associated with the GSEs' financial exposure and consider any private capital that would serve as a buffer to absorb losses before the federal guarantee came into play. The way in which CBO would

13. Congressional Budget Office, *Federal Subsidies and the Housing GSEs* (May 2001), [www.cbo.gov/publication/13072](http://www.cbo.gov/publication/13072).

measure the cost of the guarantee—whether it would use cash or accrual estimates and whether it would incorporate market risk—would depend on the nature of the commitment.

Before the GSEs were placed in conservatorships, CBO did not incorporate their implicit federal guarantee in its budget estimates. But the events of 2008 provide support for recording the cost of such a guarantee if the GSEs were released from government control without an explicit federal backstop. CBO would look to provide the Congress with comprehensive information about the estimated cost of an implicit guarantee. In particular, CBO would consult with the House and Senate Budget Committees about how to present information about the cost of the implicit guarantee along with, or as part of, its future baseline projections.

## 7. CBO's estimate of the proceeds from selling the Treasury's shares in the GSEs would depend on many factors

CBO's projection of how much the Treasury would earn from selling its financial stake in Fannie Mae and Freddie Mac would depend on the details of the proposed policy. Some of the most important factors include possible changes in the GSEs' obligations that would reduce the value of the Treasury's shares, policy changes that could affect the potential profitability of the GSEs' mortgage guarantees and other assets, and the extent of any federal guarantee of the solvency of the GSEs as private companies.

### The Value of the Treasury's Shares

Legislation or further actions by the Treasury could reduce the GSEs' obligations to the Treasury. Such a change would allow the GSEs to raise more capital and thereby leave their conservatorships sooner, but it would also reduce the value of the Treasury's shares.

For example, decreasing the seniority of the Treasury's ownership stake in the GSEs would enable them to raise funds to meet their capital requirements by selling new common stock. To encourage private investors to buy the new shares, the GSEs would need to be able to pay dividends on them in the foreseeable future. But the current ownership structure of Fannie Mae and Freddie Mac makes that difficult. Today, the GSEs do not pay dividends on any of their shares. If they began doing so, the senior preferred stock held by the Treasury would have

the highest priority for those payments. Outstanding junior preferred stock in the GSEs, which is held by private investors, would have the next highest priority for receiving dividends (see the appendix). Common stock would have the lowest priority. As long as the Treasury's senior preferred shares remained outstanding and the GSEs' profits were not sufficient to pay dividends on all preferred stock, holders of common shares would receive no dividends, and investors might be unwilling to purchase such shares.

Various ways exist to reduce the seniority of the Treasury's claim on the GSEs to enable them to sell common stock more easily. In a 2020 report and a 2024 update, CBO analyzed a scenario in which the Treasury would modify its agreements with the GSEs so they could buy back the Treasury's senior preferred shares at the face (par) value.<sup>14</sup> According to the central estimates in that update, if the GSEs were recapitalized and released in 2027, the Treasury would need to accept less than the par value of its preferred shares to allow the GSEs to raise the funds they would need from new investors.

The Treasury could modify its shares in other ways, such as by converting its senior preferred stock to common stock—as it did when resolving the bankruptcy of the insurance and financial company AIG after the 2007–2009 financial crisis.<sup>15</sup> Reducing the seniority of the government's claim in that way would decrease the value of the Treasury's shares and increase the value of outstanding preferred and common shares held by private investors. As an alternative, placing Fannie Mae and Freddie Mac in receivership could avoid lowering the value of the Treasury's shares, but it would involve other trade-offs (see the appendix).

### Mortgage Guarantees and Other Assets

CBO's estimate of the market value of the GSEs would depend heavily on its estimate of the future profitability of their core business—guaranteeing mortgage-backed

14. Congressional Budget Office, *An Update to CBO's Analysis of the Effects of Recapitalizing Fannie Mae and Freddie Mac Through Administrative Actions* (December 2024), [www.cbo.gov/publication/60810](http://www.cbo.gov/publication/60810), and *Effects of Recapitalizing Fannie Mae and Freddie Mac Through Administrative Actions* (August 2020), [www.cbo.gov/publication/56496](http://www.cbo.gov/publication/56496).

15. Federal Reserve Bank of New York, "Actions Related to AIG" (accessed May 14, 2025), [www.newyorkfed.org/aboutthefed/aig](http://www.newyorkfed.org/aboutthefed/aig).

securities for a fee. Because CBO estimates that the GSEs charge slightly lower fees for their new MBS guarantees at origination than a private investor would charge, every new cohort of MBSs they originate subtracts value from the GSEs rather than adding value. By contrast, the GSEs' portfolios of outstanding MBSs are expected to generate positive net income because they tend to face less default risk over time than they did at origination. Moreover, the GSEs might raise their guarantee fees if they were released from federal control. In addition to mortgage guarantees, the GSEs' other assets—such as cash held in case of future losses—produce interest and other income for the enterprises.

### **Solvency Guarantee**

The price at which the Treasury could sell its shares in the GSEs would depend on any guarantee of future solvency that the GSEs might receive from the government, net of the cost that the government would charge for that guarantee. If everything else was unchanged, the sale price would be higher if the GSEs received a guarantee and lower if they had to pay a fee for it. The net effect would depend on whether the fee was higher or lower than the value of the guarantee.

If the government charged less for its guarantee than a private firm would, that underpricing would make the GSEs more profitable, and their stock would be likely to sell at a higher price. In addition, anyone who lent money to the GSEs, including buyers of their corporate bonds, would require lower interest rates if the government stood behind the two firms. And private investors would pay more for MBSs guaranteed by the GSEs if those securities had a government backstop. If everything else was unchanged, those lower costs of funding and greater proceeds from the sale of MBSs would translate into higher profits for the GSEs and thus a higher price for their common stock.

### **Other Factors**

Various other factors could affect CBO's projection of the proceeds from selling the Treasury's shares. If lawmakers introduced competition for the GSEs—such as by issuing charters to other enterprises to compete with Fannie Mae and Freddie Mac—CBO would assess that mortgage interest rates would be lower than they would be otherwise but that proceeds from the sale would also be lower. If the GSEs were required to allocate a large portion of their resources to buying or guaranteeing mortgages from borrowers with low income, or if they were restricted from offering new financial products, their future profitability would be lower, as would the sale price. Conversely, if restrictions on risk-taking by the GSEs—such as limits on the size of their retained portfolios or down payment requirements for the mortgages they were allowed to buy—were relaxed, the sale price would be higher.

When estimating the cost of legislation that would involve selling the Treasury's shares in the GSEs, CBO would first consider whether the proceeds from the sale should be included in the cost estimate. In keeping with the Congress's scorekeeping guidelines for asset sales, CBO makes such a decision by comparing the expected sale price of an asset with the value of the future income the government would derive from the asset if it kept it. Then, if the projected sale price is at least as much as the present value of that future income, CBO includes the proceeds from the sale in its cost estimate. If the sale price is less than the present value of that future income, CBO does not include the proceeds in its cost estimate. In the case of selling the Treasury's shares in Fannie Mae and Freddie Mac, CBO expects that the proceeds would meet the required threshold as long as the shares were sold through a competitive process.

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# Appendix: Illustrative Policies to Recapitalize the GSEs and Release Them From Federal Control

This appendix explores the budgetary effects of two illustrative approaches to recapitalizing Fannie Mae and Freddie Mac and ending their federal conservatorships. Those formerly independent government-sponsored enterprises (GSEs) are currently controlled by the Federal Housing Finance Agency (FHFA) and effectively owned by the Treasury, their majority shareholder.

## Outline of the Illustrative Policies

Many options exist for rebuilding the capital reserves of the GSEs and releasing them from government control. This appendix examines two hypothetical policies: one in which the Treasury would convert its senior preferred stock in the GSEs to common stock and one in which the FHFA would place the GSEs in receivership (a condition that would involve having their assets transferred to other entities).

### Conversion During Conservatorship

In the first approach, the process of recapitalization and release would begin with the Treasury changing its senior preferred shares in the GSEs into common shares. Next, the Treasury would exercise the warrants it received in exchange for agreeing to keep the GSEs solvent. Those warrants allow it to buy additional common shares in the GSEs. By converting its senior preferred shares, the Treasury would give up the preference for dividend payments that those shares command; instead, the Treasury's stock would have a status equal to that of the common stock held by other investors.

Next, Fannie Mae and Freddie Mac would issue additional common stock and sell it to the public. The cash raised from those sales would create capital reserves that would serve as a buffer to absorb larger-than-expected losses in the future and to meet the FHFA's capital requirements for the GSEs—a precondition for releasing them from federal control. After their release, the Treasury would gradually sell its holdings of common

stock. Each step in that illustrative process would have distinct effects on the proceeds the Treasury would be likely to receive from that sale (see Table 1).

### Transfer During Receivership

In the second approach, the FHFA would change the GSEs' legal status from conservatorship to receivership. Putting the GSEs in receivership would generally involve transferring their assets to other entities. In this illustrative example, the FHFA would create new legal entities to continue the operations of Fannie Mae and Freddie Mac (under the same names) and would transfer all of their existing assets and liabilities to those new corporations.

The receivership would then sell common shares in the new Fannie Mae and Freddie Mac corporations to private investors. Part of the proceeds from those sales would be kept by the corporations to satisfy the FHFA's capital requirements. The rest would be used to liquidate shareholders' claims in the original GSEs. In CBO's assessment, the amount available to liquidate all claims would almost certainly be less than the liquidation preference of the Treasury's senior preferred shares (the amount of money the Treasury is eligible to receive before more junior investors are paid). Thus, the Treasury would receive all of the proceeds of the common stock sale not kept as capital reserves.<sup>16</sup>

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16. Under this scenario, it would not matter whether the Treasury exercised its warrants, because common shares in the original GSEs would have too low a priority to have any value in liquidation, CBO estimates. The liquidation preference is equal to the face value of preferred stock, plus the value of dividends that the GSEs would have made if dividends had not been suspended because of changes made to the preferred-stock purchase agreements in 2019. That liquidation preference totaled \$341 billion as of December 2024 and is projected to grow to nearly \$400 billion by the end of 2026.

Table 1.

## Steps in an Illustrative Approach for Recapitalization and Release in Which the Treasury Converts Its Senior Preferred Stock to Common Stock

Step	Description	Effects on the value of the Treasury's stock
Convert the Treasury's senior preferred stock	The Treasury would convert its senior preferred shares in the GSEs, with a face value of approximately \$190 billion, into common shares. At an illustrative conversion rate of \$2 per share, the Treasury would receive 95 billion common shares, raising the total number of outstanding common shares from 1.8 billion to 96.8 billion.	Reduces the value of the Treasury's shares. Although the Treasury would own almost all of the GSEs' common stock, it would have a smaller claim on the GSEs' income than owners of privately held preferred stock.
Exercise the Treasury's warrants	The Treasury would exercise its warrants to buy another 7.2 billion common shares for a nominal price.	Increases the value of the Treasury's shares. The Treasury would own 98 percent of the GSEs' common stock and be entitled to that percentage of the common stock dividends.
GSEs raise additional capital	The GSEs would issue new common stock and sell it to private investors for approximately \$162 billion in cash. That amount, combined with the GSEs' existing assets, would give the GSEs a total net worth sufficient to meet the FHFA's capital requirements, a precondition for being released from their conservatorships.	Offsetting effects. It increases the value of the GSEs by \$162 billion but reduces the Treasury's portion of that value.
Sell the Treasury's shares	The Treasury would sell its common shares to the highest bidder in a competitive process over a long enough period (perhaps more than a year) to avoid flooding the market and lowering the price that investors would be willing to pay.	Generates proceeds for the Treasury. A competitive and gradual process would result in the maximum possible sale proceeds.

Data source: Congressional Budget Office.

This illustrative approach is the one labeled "Scenario 1: Conversion during conservatorship" in Table 2.

FHFA = Federal Housing Finance Agency; GSEs = government-sponsored enterprises (specifically, Fannie Mae and Freddie Mac).

### Effects on the Value of Fannie Mae and Freddie Mac

Those two approaches would result in identical projections of future earnings for Fannie Mae and Freddie Mac after recapitalization and release. Whether the conservatorships were ended through the conversion of preferred shares and sale of additional common shares or through receivership and transfer, Fannie Mae and Freddie Mac would have the same assets and liabilities afterward. The total market value of their equity should also be the same, but that value would be divided differently among stakeholders under the two approaches.

To illustrate that difference, the Congressional Budget Office set the combined market value of Fannie Mae and Freddie Mac after recapitalization and release at \$368 billion in both scenarios and calculated how that value would be divided among various stakeholders

(see Table 2).<sup>17</sup> In that example, at the beginning of the recapitalization process, the GSEs' combined capital would be \$162 billion less than the amount required for release. The GSEs would need to raise the additional capital from new investors.

The mechanics of raising the additional capital would differ between the two scenarios, but both would result in new investors providing \$162 billion to the companies

17. In this example, CBO used the total market value and amount needed for recapitalization from Scenario 2 of Table 1 in Congressional Budget Office, *An Update to CBO's Analysis of the Effects of Recapitalizing Fannie Mae and Freddie Mac Through Administrative Actions* (December 2024), p. 9, [www.cbo.gov/publication/60810](http://www.cbo.gov/publication/60810). In actuality, the GSEs' total market value and amount needed for recapitalization would depend on many factors and could differ from the amounts in CBO's examples.

Table 2.

## Distribution of the Equity Value of Fannie Mae and Freddie Mac Under Two Illustrative Scenarios for Recapitalization and Release

Billions of dollars

	Scenario 1: Conversion during conservatorship	Scenario 2: Transfer during receivership
Total equity value of fully capitalized companies	368	368
Amount raised to cover capital shortfall to meet capital requirements	162	162
Raised from issuing new shares in existing corporate entities	162	n.a.
Retained after selling shares in new corporate entities	n.a.	162
Total equity value net of amount raised to cover capital shortfall	206	206
Total amount distributed to claimants in old corporate entities	n.a.	206
Paid to the Treasury on liquidation of old entities	n.a.	206
Paid to other claimants on liquidation of old entities	n.a.	0
Total amount owned by current shareholders	206	n.a.
Junior preferred stock (privately held)	33	n.a.
Existing common stock (privately held)	3	n.a.
Common stock obtained by the Treasury through converting senior preferred stock	158	n.a.
Common stock obtained by the Treasury through exercising warrants	12	n.a.
<b>Amount received by the Treasury</b>		
Paid to the Treasury on liquidation of old entities	n.a.	206
Common stock obtained by the Treasury through converting senior preferred stock	158	n.a.
Common stock obtained by the Treasury through exercising warrants	12	n.a.
<b>Total</b>	<b>170</b>	<b>206</b>

Data source: Congressional Budget Office.

n.a. = not applicable.

and owning \$162 billion of equity in exchange. Under the scenario of conversion during conservatorship, that \$162 billion would come from selling shares in the existing enterprises. Under the scenario of transfer during receivership, shares for the entire ownership of the new corporations would be sold, and the \$162 billion would be retained from the proceeds of those sales (the rest would be distributed to claimants in the original GSEs).

### Conversion During Conservatorship

In the case of conversion, the new investors who provided \$162 billion in new capital and the current stakeholders in the GSEs would own companies worth a total market value of \$368 billion. With the new investors owning \$162 billion, the remaining \$206 billion would represent the value of the GSEs' existing stock. Of

that \$206 billion, the Treasury would own \$170 billion after converting its preferred stock to common stock and exercising its warrants, CBO estimates.

To calculate that amount, CBO applied an illustrative conversion rate of \$2 per share, meaning the Treasury would receive 95 billion common shares for the \$190 billion face value of its preferred stock.<sup>18</sup> The warrants entitle the Treasury to an additional 7.2 billion common shares (four times the 1.8 billion common shares currently outstanding). The resulting 102 billion shares of common stock that the Treasury would own would have a value of \$170 billion, CBO estimates,

18. The conversion rate would be based on legal and other considerations. The rate CBO used is solely for illustration.

given the total value of common stock and the need to issue enough additional shares to raise \$162 billion from new private investors. Under those estimates, nearly 97 billion shares would be issued to new private investors, with an implied share price of \$1.67.<sup>19</sup>

### **Transfer During Receivership**

In the case of transfer, the Treasury would receive the entire \$206 billion value of the GSEs' existing stock,

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19. The fact that the implied share price is lower than the conversion rate reflects the loss that the Treasury would experience from agreeing to have a lower priority for dividends (relative to that of junior preferred stock) after the conversion.

because the liquidation preference of its senior preferred stock exceeds that amount. The difference between the Treasury's receiving \$206 billion for its shares in the transfer scenario but owning \$170 billion in common stock in the conversion scenario results from converting the senior preferred stock to common stock. If the Treasury gave up the preference associated with its senior shares, that conversion would create \$36 billion of value for private shareholders in the GSEs—\$33 billion for the owners of junior preferred stock and \$3 billion for the owners of existing common stock. That \$36 billion would essentially be transferred from the Treasury to those shareholders.

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# Glossary of Terms Related to Fannie Mae and Freddie Mac

**accrual accounting:** A system of accounting in which the estimated value of expenses and related receipts is recorded when the legal obligation for those expenses and receipts is first made rather than when subsequent cash transactions occur. Accrual accounting is used for a limited set of programs in the federal budget—mainly programs that make or guarantee loans.

**administrative actions:** Actions taken by federal agencies to implement laws and programs under their authority. Such actions include rulemaking, guidance, agency letters, directives, notices, and similar activities.

**backstop:** See **solvency guarantee**.

**basis point:** One one-hundredth of a percentage point.

**capital requirements:** The minimum amount of financial resources that regulators require a financial institution to maintain to absorb potential losses.

**capital shortfall:** The amount of additional resources that a financial institution needs to amass to meet its regulators' capital requirements.

**cash-based accounting:** A system of accounting in which revenues are recorded when cash is received and expenses are recorded when payment is made, regardless of the accounting period in which the revenues were earned or the costs were incurred. Cash-based accounting is used for most programs in the federal budget.

**CBO baseline:** Projections of the federal spending and revenues that would result over the next 10 years if current laws generally remained in place. CBO constructs its baseline in accordance with rules specified in law or developed jointly with the House and Senate Committees on the Budget and the Administration's Office of Management and Budget. The baseline is not intended to be a forecast of future budgetary outcomes; rather, it serves as a benchmark that policymakers can use to evaluate the anticipated effects of proposed legislation.

**CBO cost estimate:** An estimate of how proposed legislation would change federal spending and revenues over the next 5 or 10 years in relation to CBO's projections of budgetary outcomes under current law. CBO is required by law to produce a formal cost estimate for nearly every bill that is approved by a full committee of either the House or the Senate.

**commitment fee:** A fee charged in exchange for a legally binding promise to do something. In this report, the term refers to an amount the Treasury could charge Fannie Mae and Freddie Mac to continue guaranteeing their solvency after they were released from federal control.

**common stock:** Ownership shares in a company that have the lowest priority for receiving dividend payments from the company or a share of the company's assets if it is liquidated.

**conservatorship:** A legal arrangement in which a person or entity is appointed to control and oversee a company to put it on a sound financial footing. Fannie Mae and Freddie Mac have been under the conservatorship of the Federal Housing Finance Agency since September 2008.

**conversion rate:** The price that determines how many shares of one security an investor receives for another security. In this report, the term refers to the price at which the Treasury would convert its senior preferred shares in Fannie Mae and Freddie Mac to common shares under one possible approach for recapitalizing the GSEs and releasing them from federal control.

**default:** The failure to make required repayments on a debt obligation, such as a mortgage.

**dividends:** Payments that a company makes to its shareholders from its profits.

**equity value:** The total value of a company available to its owners or shareholders.

**face value:** See **par value**.

**fair-value accounting:** A type of accrual accounting that incorporates market risk, the risk that adverse movements in overall market conditions will reduce the value of a financial asset. Fair-value accounting takes into account the fact that financial assets tend to perform poorly when the economy is weak. At those times, borrowers are more likely to default on their debt obligations, and amounts recovered from defaulting borrowers are smaller.

**Federal Credit Reform Act of 1990 (FCRA):** A law requiring that certain federal credit programs be accounted for on an accrual basis in the federal budget. FCRA accounting differs from fair-value accounting by not incorporating market risk.

**federal credit subsidy for mortgage guarantees:** The amount the federal government effectively spends on mortgage-backed securities guaranteed by Fannie Mae and Freddie Mac. That subsidy equals the difference between the present value of losses from defaults (net of recoveries) expected to occur on those guarantees over their lifetime and the present value of the fees expected to be collected for those guarantees over their lifetime.

**Federal Housing Finance Agency (FHFA):** The federal agency that regulates Fannie Mae and Freddie Mac and serves as their conservator.

**government-sponsored enterprises (GSEs):** Private companies created by federal law to fulfill a particular purpose, such as facilitating the flow of funding for home loans. In this report, “GSEs” refers specifically to Fannie Mae and Freddie Mac.

**junior preferred stock:** Ownership shares in a company that have a higher priority than common stock—but a lower priority than senior preferred stock—for receiving dividend payments from the company or a share of the company’s assets if it is liquidated.

**liquidation:** The process of ending a company by selling its assets and distributing the proceeds to various claimants, such as creditors and shareholders.

**liquidation preference:** The amount of money a class of investors is eligible to receive from a company being liquidated before more junior investors are paid.

**market risk:** The component of financial risk that is associated with the overall performance of the economy rather than with the performance of a specific investment. It results from shifts in macroeconomic conditions, such as productivity and employment, and from changes in expectations about future macroeconomic conditions. The government is exposed to market risk through various activities, such as making or guaranteeing loans, providing insurance, or investing in financial assets.

**mortgage-backed securities (MBSs):** Financial securities whose payments of interest and principal are backed by the payments from a pool of mortgages. Fannie Mae and Freddie Mac provide funding to mortgage markets by purchasing home loans from lenders and pooling them into MBSs, which they sell to investors.

**mortgage guarantee:** Fannie Mae’s and Freddie Mac’s guarantee that investors who buy MBSs from them will receive timely payments of principal and interest on the pools of mortgages underlying those securities, even if borrowers default on the loans.

**par value:** The nominal value of a financial security, which determines the amount that the issuer promises to pay if it buys back the stock or is liquidated. In the case of preferred stock, such as that issued by Fannie Mae and Freddie Mac, the obligation to pay dividends is equal to the par value times a dividend rate.

**pool of mortgages:** The set of home loans underlying a mortgage-backed security.

**preferred-stock purchase agreements:** Agreements in which the Treasury has committed to keeping Fannie Mae and Freddie Mac afloat financially by purchasing additional senior preferred shares in the GSEs whenever their net worth falls below zero.

**present value:** A single number that expresses a flow of current and future income or payments in terms of an equivalent lump sum received or paid at a specific time, generally the present. The present value of future cash flows is determined by applying a discount rate, which reflects the time value of money and the risk associated with those cash flows. That rate is used to convert future cash flows into their equivalent value at a given time.

**recapitalization:** The process of enabling Fannie Mae and Freddie Mac to rebuild their capital reserves by retaining more of their earnings and possibly by issuing additional shares.

**receivership:** A legal arrangement in which a person or entity is appointed to liquidate and resolve a failing institution (rather than correct its financial problems, as in a conservatorship).

**release:** Ending federal control of Fannie Mae and Freddie Mac and returning them to private ownership.

**senior preferred stock:** Ownership shares in a company that have the highest priority for receiving dividend payments from the company or a share of the company's assets if it is liquidated.

**solvency guarantee:** A commitment by the federal government to maintain the solvency of Fannie Mae and Freddie Mac. Such a guarantee could be explicit, as under the current preferred-stock purchase agreements with the Treasury, or it could be implicit, as many investors assumed before the GSEs were placed in conservatorships.

**solvent:** The condition of being able to pay all legal debts.

**subsidy:** See **federal credit subsidy for mortgage guarantees**.

**underpricing:** The extent to which, in CBO's estimation, Fannie Mae and Freddie Mac charge lower premiums for their mortgage guarantees than private-sector investors would charge to assume the same risk. Under current policies, that underpricing is projected to average about 0.06 to 0.10 percentage points in each of the next 10 years.

**warrants:** Securities that give the holder the right (but not the obligation) to purchase stock for a fixed price. In this report, the term refers to warrants that give the Treasury the right to buy common stock in Fannie Mae and Freddie Mac—equal to 79.9 percent of their total outstanding shares—for a nominal amount. Those warrants expire on September 7, 2028.

This report was prepared to enhance the transparency of the Congressional Budget Office's work in analyzing proposals to change the status of Fannie Mae and Freddie Mac. In keeping with CBO's mandate to provide objective, impartial analysis, the report makes no recommendations.

Michael Falkenheim prepared the report with contributions from Mitchell Remy and guidance from Sebastien Gay. Chad Chirico, Justin Humphrey, Noah Meyerson, Zunara Naeem, Sam Papenfuss, Emily Stern, Robert Sunshine (a consultant to CBO), Aurora Swanson, David Torregrosa, and Byoung Hark Yoo offered comments. Wendy Kiska fact-checked the report.

Comments were also provided by Laurie Goodman of the Urban Institute and by Deborah Lucas of the Massachusetts Institute of Technology and Donald Marron of the Urban Institute (both consultants to CBO). The assistance of external reviewers implies no responsibility for the final product; that responsibility rests solely with CBO.

Mark Hadley and Jeffrey Kling reviewed the report. Christian Howlett edited it, and Jorge Salazar created the graphics and prepared the text for publication. The report is available at [www.cbo.gov/publication/61374](http://www.cbo.gov/publication/61374).

CBO seeks feedback to make its work as useful as possible. Please send comments to [communications@cbo.gov](mailto:communications@cbo.gov).



Phillip L. Swagel  
Director



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# Report To The Congress

OF THE UNITED STATES

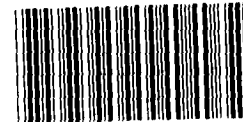
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## Internal Auditing Can Be Strengthened In The Federal Reserve System

This report deals with the status of the Federal Reserve Systems' internal auditing activities and suggests ways to strengthen the use of internal auditing within the organization. On the basis of its study, GAO has concluded that the Federal Reserve System should:

- Establish a permanent, independent internal audit group at the Board of Governors.
- Require that Federal Reserve Bank internal audit groups review their Reserve Banks' banking supervision and regulation and economic research activities, particularly from the perspective of operational efficiency and effectiveness.



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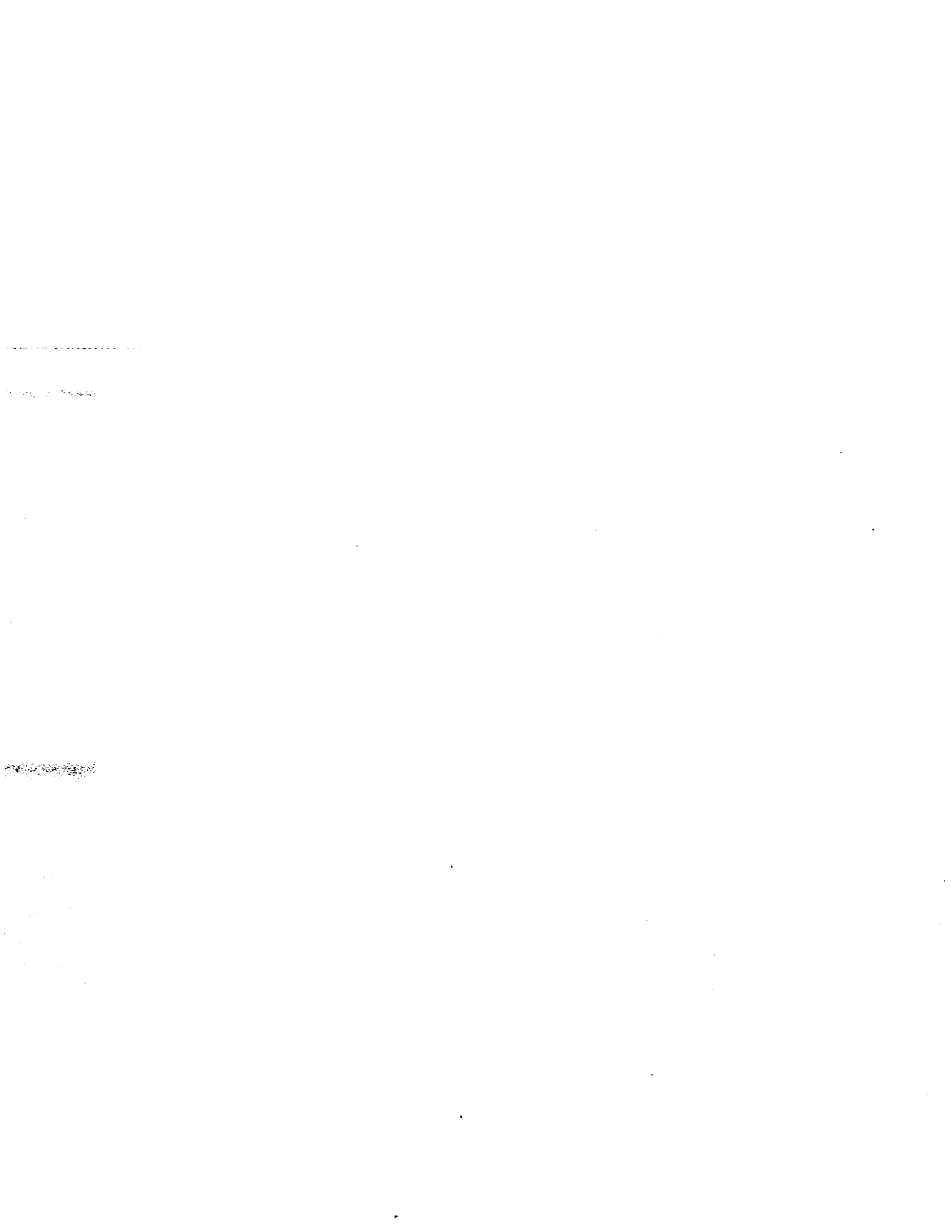
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To the President of the Senate and the  
Speaker of the House of Representatives

We made our review to determine if the Federal Reserve System is effectively using internal auditing as a tool to promote management efficiency and effectiveness. This report points out that the Federal Reserve Board of Governors has no permanent, independent internal audit group and that Federal Reserve Bank internal auditors are restricted from fully reviewing the efficiency and effectiveness of Reserve Bank supervision and regulation and economic research activities.

We are sending a copy of this report to the Chairman, Board of Governors of the Federal Reserve System.

*James B. Atchafalua*  
Comptroller General  
of the United States



D I G E S T

Federal Reserve System top management should establish a permanent, independent internal audit group to serve the Board of Governors at headquarters and require that Federal Reserve Bank internal audit groups perform more operational reviews of their Reserve Banks' banking supervision and regulation and economic research activities.

THE BOARD OF GOVERNOR'S SHOULD  
ESTABLISH A PERMANENT, INDEPENDENT  
INTERNAL AUDIT GROUP

Although the Board of Governors has recognized the need for independent evaluations of its operations, it has not established a permanent, independent internal audit group. Components of the Office of the Controller, an external auditor hired by the Board, and the Board's Operations Review Program make periodic reviews of Board activities. However, none of these groups provide the fully independent, substantive evaluations of operations needed by the Board. (See p. 6.)

Each of the Board's current review efforts has limitations restricting either its independence or scope of activities. Components of the Office of the Controller make reviews designed primarily to carry out the Controller's responsibilities and enjoy no independent, direct reporting or operating relationship with the Board. (See p. 7.) Although the external auditor reports directly to the Board, its reviews are confined primarily to financial control areas. (See p. 10.)

The Operations Review Program, which makes reviews closely resembling those of an internal audit group, has encountered problems. The first arises because it is staffed entirely with part-time personnel detailed from other organizations who may be associated with the activities examined. To illustrate, in one of the two reviews completed to date, a review team leader reduced the scope of the review to avoid compromising his independence. Another problem is that followup on report recommendations has been inconsistent and incomplete because the Board has not made followup a part of normal Program responsibility.

While the Board has considered establishing a permanent, independent internal audit group, management has rejected the idea primarily because of a lack of funds and positions.

A new permanent internal audit function has been recently established in the Office of the Controller. In addition the Board staff is planning several actions to strengthen its Operations Review Program. However, the Office of the Controller's new internal audit unit lacks the necessary organizational independence and the Operations Review Program will continue to remain a part-time activity, even if the new plans are adopted. GAO believes that a permanent, independent audit group would be superior to these changes in meeting the established independent evaluation needs of the Board. (See p. 9.)

FEDERAL RESERVE SYSTEM MANAGEMENT  
SHOULD BROADEN THE ROLE OF FEDERAL  
RESERVE BANK GENERAL AUDITORS

The Reserve Bank General Auditors have concentrated nearly exclusively on financial and compliance audits and devoted little effort to operational audits of Reserve Banks' supervision and regulation and economic research activities.

The General Auditors at the 12 Federal Reserve Banks are all organizationally independent, aligned to report to the highest practicable level, and staffed with professionally qualified auditors. In addition, the General Auditors, acting collectively within their Conference of General Auditors, have established a System-wide set of auditing standards which are generally consistent with professional internal auditing standards. A quality control program has also been established within the System wherein each General Auditor unit is examined periodically by a review team. (See p. 19.)

In accordance with management's expectations, the General Auditors have conducted mainly financial, compliance, and procedural audits concentrating on matters of financial control. These audits have provided useful information to management. (See p. 19.)

However, by concentrating nearly exclusively on financial and compliance audits, little effort has been devoted to operational audits of Reserve Banks' banking supervision and regulation and economic research activities. Traditionally, General Auditors have:

--Not conducted audits of the efficiency and effectiveness of Reserve Bank supervision and regulation and economic research activities. (See p. 21.)

--Not effectively followed up on findings identified during Board of Governor's operational reviews of Reserve Banks' banking supervision and regulation and economic research activities. (See p. 31.)

Although the General Auditors, acting collectively within their Conference of General Auditors, have debated their audit role in the bank supervision and regulation and economic research areas several times, no collective approach toward auditing these areas has been formally adopted.

Uncertainty continues as to what the General Auditor's role should be regarding the evaluation of these activities. (See p. 29.)

Recently, the Staff Director for Federal Reserve Bank Activities, Federal Reserve Board, proposed that the General Auditors be excluded from reviewing areas involving bank examiners' judgments. This position is inconsistent with professional internal auditing standards which advocate an unrestricted scope of review. (See p. 30.)

#### RECOMMENDATIONS

GAO recommends the Chairman of the Board of Governors of the Federal Reserve System:

- Establish a permanent, independent internal audit group at the Board of Governors, consistent with professional internal auditing standards. (See p. 18.)
- Require that Reserve Bank General Auditors review the efficiency and effectiveness of bank supervision and regulation and economic research activities. (See p. 33.)
- Instruct the Conference of General Auditors to amend their "Audit Standards and Levels of Audit Attention for Federal Reserve Banks" to include (1) a System-wide approach toward reviewing bank supervision and regulation and economic research activities and (2) a specific operational policy statement requiring the General Auditors to follow up Board of Governor's reviews. (See p. 33.)

AGENCY COMMENTS

Although acknowledging that the Board of Governors' internal review program needs strengthening, and generally agreeing with GAO's comments regarding Federal Reserve Bank internal auditing activities, the Board did not agree with GAO's recommendations. Instead of establishing a permanent, independent internal audit group, the Board stated it would attempt to strengthen its existing Operational Review Program. The Board also continues to restrict the scope of Bank internal audit reviews to exclude any evaluation of professional efficiency and effectiveness as well as the end product of professional staff work. (See pp. 44-48.)

GAO continues to believe that the full adoption of its recommendations would strengthen the value of internal auditing activities to both Board and System management.



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ABBREVIATIONS

GAO	General Accounting Office
FRS	Federal Reserve System
OMB	Office of Management and Budget

## CHAPTER 1

### INTRODUCTION

This report evaluates internal auditing within the Federal Reserve System (FRS). Internal auditing is an independent appraisal function established in an organization to examine and evaluate that organization's activities. Its overall objective is to assist management in discharging its responsibilities by furnishing information, analyses, appraisals, and recommendations pertinent to the organization's execution of management's policies and procedures. The internal auditing function uniquely supplements routine management checks through its independent approach and review methodology.

Every organization needs an effective system of internal management control. One of the best means of providing such control is by establishing effective internal auditing systems. The importance of internal auditing has been recognized by the Congress in a number of laws, particularly the Budget and Accounting Procedures Act of 1950. The act requires the head of each agency to establish and maintain accounting and internal control systems designed to effectively control and account for all funds, property, and other assets for which the agency is responsible.

The private sector, particularly the banking industry has also recognized the need for effective internal auditing systems. Many important firms have established internal audit units, which top management looks to for independent evaluations of operational efficiency and effectiveness.

#### STANDARDS USED TO EVALUATE INTERNAL AUDIT ORGANIZATIONS

We assessed FRS' internal auditing against widely accepted internal auditing standards which have been formulated for government and private industry, including banking. Within the government we have published policies and procedures for auditing programs and functions. The Office of Management and Budget (OMB) embodied these policies and procedures in its directives to executive agencies. For private industry, several organizations, including the Institute of Internal Auditors, Inc., and the Bank Administration Institute, have issued internal auditing standards.

While these standards may differ slightly in organization, they can be subdivided into three categories--general standards, examination or evaluation standards, and reporting standards. General standards applicable to an organization's internal audit activity include:

- Independence of auditors from activity audited.
- Professional proficiency of audit staff.
- Full review scope (financial operations, economy and efficiency, and program results).
- Due professional care.

Examination or evaluation standards include:

- Sound audit planning.
- Proper supervision of assistants.
- Adequate supporting evidence.
- Proper reviews of compliance with applicable laws and regulations.
- Complete evaluation of internal controls.

Reporting standards include:

- Timely reports to appropriate officials.
- Clear and accurate language.
- Adequate support of findings.
- Sound recommendations for improvement and consideration of issues requiring further study.
- Constructive tone, including mention of positive findings.
- Fair reporting of auditee's views.
- Adequate description of scope, including mention of information omitted for purposes of confidentiality.

**FEDERAL RESERVE SYSTEM**  
**HAS MANY FUNCTIONS**

The Federal Reserve System was created on December 23, 1913, by the Federal Reserve Act (38 Stat. 251; 12 U.S.C. 221). Specifically the act established Federal Reserve Banks, supervised by a Board of Governors to carry out monetary policy and to improve the supervision of banking in the United States, as well as provide various central banking services for member banks and the U.S. Government. FRS has been entrusted with many supervisory and regulatory functions:

- Approving or denying applications for various actions, such as for branches, mergers, bank holding company formation, capital stock or debenture issues, and membership in FRS.
- Determining margin requirements; i.e., the amount of credit that may be extended to purchase or hold equity securities.
- Regulating the foreign activities of all member banks.
- Regulating the activity of bank holding companies.
- Administering securities registration requirements (under the Securities Exchange Act of 1934) that apply to State member banks.
- Establishing rules for all lenders of consumer credit to disclose interest on loans and terms of repayment ("truth in lending").
- Examining State member banks, bank holding companies and their nonbank subsidiaries, and Edge Act and agreement corporations.

In addition to these functions, the FRS also provides banking type services for both the U.S. Government and FRS member banks. FRS services the Government's checking account--Reserve Banks pay all checks drawn on the Treasury. In addition, FRS participates in the sale, transfer, and

redemption of Government securities. For its 5,500 member banks, FRS operates a nationwide clearinghouse service for checks and other noncash items, participates in the circulation of currency, and provides nationwide wire transfer services.

The level of these banking activities is enormous. In 1978, FRS

- processed 14.8 billion checks totaling \$7.6 trillion, including over 700 million Government checks amounting to approximately \$439 billion;
- assisted in the sale, transfer, or redemption of over 280 million Government securities totaling over \$8 trillion; and
- processed 29 million transfers of funds totaling in excess of \$50 trillion.

To carry out these responsibilities, FRS has a 7-member Board of Governors, supported by 13 major headquarters divisions and offices in Washington, D.C., and a system of 12 Federal Reserve Banks with 25 branches throughout the country. In addition, in 1979, FRS had an operating expense budget of \$803.8 million (\$754.0 million for the Reserve Banks and \$49.8 million for the Board), which included salaries for 24,661 authorized staff positions (23,151 at the Reserve Banks and 1,510 at the Board). FRS also had a 1979 capital expenditure budget of \$73.6 million.

FRS is financed mainly by interest on its holdings of U.S. Government securities, which it acquires in the process of creating bank reserves. After FRS operations have been financed, interest income left over is returned to the Treasury.

FRS's management control strategy is described in Appendix I. This strategy consists of a functionally aligned organizational structure, supplemented by various formal information systems. Internal auditing is a part of this control strategy.

#### HISTORY OF THE FEDERAL RESERVE SYSTEM INTERNAL AUDIT FUNCTION

Since its organization in 1914, FRS has recognized the need for and has used internal auditing. Most of the Federal Reserve Banks have used internal auditing to

conduct independent audits of their activities. And, as part of its supervisory function over the Reserve Banks, the Board of Governors has been conducting examinations of Reserve Bank activities since FRS' organization. Although the Board has not established an independent internal audit group, its accounts have always been audited by outside sources.

Nine of the 12 Reserve Banks had established internal audit groups by 1916 to perform such duties as semimonthly audits of the tellers' cash, monthly audits of the vault cash and the loan department, and continuous audits of the Federal Reserve notes and gold. Today, the Reserve Bank General Auditors conduct audits of over 45 Reserve Bank activities.

The Board has also conducted examinations of the Reserve Banks since 1914. The Division of Audits and Examination (a predecessor to the Division of Federal Reserve Bank Operations) conducted the early Reserve Bank examinations on a semiannual basis. The Division's overall objectives were to determine how economically the Reserve Banks administered their activities and how they maintained their internal control, including the auditing system. The resulting report was to be filed with the Reserve Banks and examined and initialed by each member of the board of directors. Presently, five Board divisions, including the Division of Federal Reserve Bank Operations, conduct reviews of Reserve Bank activities.

Since its origin, the Board of Governors' internal control system has not included an independent internal audit group. The Board's accounts, however, have been audited by outside sources since 1917. During the period 1917 through 1933, the Board's accounts passed through the Office of the Auditor for the State Department and other Departments and were officially examined as required by the Government. From 1934 through 1951, the Board arranged for Reserve Bank auditors to audit and certify Board accounts. In 1952, the Board began contracting with public accounting firms to audit and certify its accounts. Using a competitive bid process, the Board entered into a new contract with a public accounting firm in 1979 to continue these services.

## CHAPTER 2

### THE BOARD OF GOVERNORS SHOULD ESTABLISH A PERMANENT, INDEPENDENT INTERNAL AUDIT GROUP

Although the Board of Governors has recognized the need for independent evaluations of its operations, it has not established a permanent, independent internal auditing group. Components of the Office of the Controller, an external auditor hired by the Board, and the Board's Operations Review Program periodically review Board activities. However, none of these groups provide the fully independent, substantive evaluations needed by the Board.

Each of the Board's current review efforts restricts either its independence or scope of activities. Although components of the Office of the Controller make reviews designed primarily to carry out the Controller's responsibilities, they enjoy no independent, direct reporting or operating relationship with the Board. Although the external auditor reports directly to the Board, its reviews are confined primarily to financial control areas.

The Operations Review Program, which makes reviews closely resembling those of an internal audit group, has encountered problems. The first arises because it is staffed entirely with part-time personnel detailed from other organizations who may be associated with the activities examined. To illustrate, in one of the two reviews completed to date, a review team leader reduced the scope of the review to avoid compromising his independence. Another problem is that followup on report recommendations has been inconsistent and incomplete because the Board has not made followup a part of normal Program responsibility. While the Board has considered establishing a permanent internal audit group, management has rejected the idea primarily because of a lack of funds and positions.

A new permanent internal audit function has been recently established in the Office of the Controller. In addition, the Board is planning actions to strengthen its Operations Review Program. However, the Office of the Controller's new internal audit unit lacks necessary organizational independence and the Program will continue to remain a part-time activity, even if the new plans are adopted. We believe a permanent, independent audit group would be superior to these changes in meeting the established independent evaluation needs of the Board.

CONTROLLER'S SECTION INTERNAL REVIEW  
ACTIVITIES DO NOT PROVIDE SYSTEMATIC  
INDEPENDENT FEEDBACK DIRECTLY TO THE  
BOARD OF GOVERNORS

The Office of the Controller's Finance and Accounting, Program and Budgets, and System Improvement Sections provide the Controller, and to some extent, the Board's Staff Director for Management, with limited internal review capabilities in the financial, budgeting, and operational control areas. Selected staff within these components are occasionally called upon to participate in ad hoc studies, with the results reported to the Board. However, the results of regular section reviews are not reported directly to the Board of Governors.

In January 1980, the Board established two permanent internal audit positions within the System Improvement Section. However, the organizational placement of these activities, reporting to the Assistant Controller, is inconsistent with professional internal auditing organizational independence standards and the organizational placement of all the Reserve Bank internal auditors throughout FRS.

Finance and Accounting Section reviews  
are part of the Office of the Controller's  
internal control system

In addition to its operational duties, such as processing the payroll, maintaining the Board of Governor's financial records, and determining bank assessments, the Finance and Accounting Section conducts limited reviews of selected financial controls. These reviews deal with cash, travel requests, and petty cash. The section also observes the physical inventories of equipment, supplies, and furniture. Normally, these reviews do not result in formal reports and the results are stored within the section. On rare occasions, section personnel have participated in special reviews which have led to reports to the Board. These efforts have been triggered by the section's detection of irregularities which appear related to fraud. When the Controller determines a special review is needed, the results are reported through him to the Board.

This section does not possess many of the characteristics required of an independent audit unit serving the Board. For example, instead of the Board:

- The Controller receives reports of all efforts and decides if the Board needs to be informed.
- The Controller decides the amount of resources to be devoted to these reviews and determines the review coverage.

The section chief strongly denied that these activities were independent internal audits, stressing that these reviews should not be assessed against professional internal auditing standards.

Program and Budgets Section reviews serve the Controller

As part of its budget responsibilities, the Program and Budgets Section conducts budget-related reviews. These reviews are normally evaluations of budget requests, such as requests for additional positions, made by other Board organizations. Between January 1978 and April 1979, this section conducted seven of these studies, all of which resulted in reports distributed within the Office of the Controller. These reviews are normally initiated by the section manager and are primarily aimed at facilitating the Controller's role in the Board budgeting process. (See app. I for a description of the Board's budgeting process.) While noting that these reviews provide useful information for the Board's budgetary process, Office of the Controller officials acknowledged that these reviews should not be considered independent internal audits.

System Improvement Section reviews are limited, internal management consultant oriented efforts

The System Improvement Section's responsibilities include identifying system improvement areas, studying and appraising existing systems, and evaluating new systems' performance. Operating primarily with one full-time staff person, assisted by another staff person on a part-time basis, the section conducted or participated in three projects during the period from January 1978 to April 1979. Past projects have included conducting studies of payroll processing procedures and leave administration, assisting in the implementation of external auditors' recommendations,

and recommending methods to decrease production and distribution costs of regulatory materials. Projects normally result from requests made by either the Staff Director for Management or the Controller.

This section has no direct reporting or operating relationship with the Board of Governors; the Controller decides the level of resources devoted to its reviews. It normally reports its evaluation results to the entity reviewed and to either the Controller or the Staff Director for Management. The section also has no formal authority to unilaterally initiate reviews, relying instead on invitations or requests from line management officials, the Controller, or the Staff Director for Management. In addition, if recommendations are made, the section plays no role in monitoring management's subsequent actions to see if these recommendations were addressed.

Controller's new internal audit activities are not organizationally independent

At the completion of our fieldwork, the Controller indicated that he recently established a permanent internal audit function, consisting of two permanent positions, within the Systems Improvement Section. These internal auditors would report through the section chief to an Assistant Controller.

This organizational placement of internal auditing is inconsistent with professional internal auditing independence standards and the practices followed throughout the rest of FRS. Professional standards note the need to avoid placing the internal auditors in an organizational position where their independence may be impaired through being subjected to the administrative or policy guidance of potential line management auditees. The 12 Federal Reserve Banks have recognized the need for internal audit independence by organizationally placing their auditors outside line management control and by having them report to audit committees composed of selected Reserve Bank board of directors.

In the Controller's planned organizational placement, these internal auditors will receive administrative and policy guidance from an Assistant Controller, who, in turn, will receive such guidance from the Controller. Although he reports directly to the Board on selected matters, the Controller, in turn, is administratively accountable to the Board's Staff Director for Management, whose broad administrative control covers a wide range of Board operations.

As a result, these internal auditors are not organizationally independent from many of the managers whose activities they may be called upon to audit.

EXTERNAL AUDITOR PROVIDES AN INDEPENDENT AUDIT  
OF THE BOARD'S FINANCIAL ACTIVITY

Although the external auditor enjoys a direct reporting relationship to the Board of Governors, these audits are limited, in large part, to financial control activities. Many areas of important Board operational activities remain outside the scope of these audits.

As a part of its management control approach, the Board of Governors employs an external auditor to annually examine the Board's financial statements and review the procedures used in the Reserve Bank examination process by the Division of Federal Reserve Bank Operations. This review includes an examination of the existing internal accounting controls and the rendering of an opinion on the fairness of statement presentations. Currently, these two reviews are performed by the same external auditor under separate contracts.

Although these reviews are useful, operational efficiency and effectiveness issues are not their focus. Only 1 of the Board's 12 primary Divisions and Offices, the Division of Federal Reserve Bank Operations, is reviewed from an operational perspective. Further, the scope of this review is limited to selected activities.

THE OPERATIONS REVIEW PROGRAM  
HAS ENCOUNTERED PROBLEMS

The Operations Review Program, which makes reviews closely resembling those of an internal audit group, has encountered problems. The first arises because it is staffed entirely with part-time personnel detailed from other organizations who may be associated with the activities examined. To illustrate, in one of the two reviews completed to date, a review team leader reduced the scope of the review to avoid compromising his independence. Another problem is that followup on report recommendations has been inconsistent and incomplete because the Board has not made followup a part of normal Program responsibility.

In 1978, the Board established the Operations Review Program, giving it the broadest mandate of the Board's review efforts. The Program administered by the Operations Review Committee has the following objectives:

- Reviewing internal administrative and financial controls.
- Ensuring compliance with applicable laws, regulations, and policies.
- Assessing the effectiveness and economy of resource management.
- Determining whether internal operating objectives are established and achieved in an effective manner.

The results of these reviews are to be reported to the Vice Chairman of the Board, members (Governors) of the Board committee responsible for oversight of the division or office reviewed, the head of the Division or Office reviewed, and either the Board's Staff Director for Management or the Staff Director for Federal Reserve Bank Activities.

To accomplish these objectives, Board staff indicated that several approaches were considered, including the establishment of a permanent internal audit group. The need for a permanent internal audit group had been raised before. A special 1975 study of the Board's procurement function, conducted by staff from the Office of the Controller, recommended that FRS establish a separate internal audit group for the Board. Their report recommended, in part, that FRS establish this function to provide the Board with an "objective evaluation of the effectiveness and efficiency with which internal control and related financial activities are being performed." The staff felt that such a review program would be a "useful management tool" and a "continuing supplement to the external audit." No action was taken on the report recommendations.

In 1978, Board staff reconsidered the auditing needs of the Board of Governors. They rejected the alternative of a permanent internal audit group for several reasons. First, they believed that, because most Board operations had never been audited, Board management needed to be educated as to the benefits of having operational audits performed. As a result, they thought that an organization

requiring extensive line management involvement would be better suited to the Board's educational needs, than a separate, permanent group which might not be fully accepted by management.

In addition, because of budgetary constraints limiting the number of available permanent positions and the availability of Board and Reserve Bank personnel with operational review experience, the Board's staff felt that a nonpermanent structure was both desirable and feasible.

Subsequently, in response to the need for a nonpermanent structure, the Board organized the Operations Review Committee. This Committee, which reports to the Vice Chairman of the Board of Governors, is composed of seven key senior Board managers who serve on a part-time rotational basis in addition to performing their other regular duties. The Program's review staff, including the team leader, can be selected on a temporary basis from the Board, Reserve Banks, or external consulting organizations, such as CPA firms. Although the formulation of a full-time, internal audit group was rejected, the Committee's policy statement indicates the Program's review standards will be "consistent" with review standards developed by us, the American Institute of Certified Public Accountants, and the Institute of Internal Auditors, Inc. While the two operational reviews performed to date have produced useful recommendations, problems have developed.

Scope of review reduced to avoid  
a compromise of independence

The use of part-time personnel to perform Program reviews has led to the scope of one review being reduced to avoid a compromise of the review team leader's independence. In addition, through the continued use of Reserve Bank personnel as review team members in its reviews, the Program may compromise the independence of its future reviews of several important Board activities.

The Program's standards call for both Committee members and review team members to be independent "in all matters relating to the operational review process." "The following situations provide examples of how this standard will be applied:

--"Committee Members will refrain from participating in any review related deliberations involving divisions or offices in which they have had previous decision making or other management responsibilities if such relationships compromise their independence.

--"The Committee will assess all review staff assignments to ensure that no individuals are assigned to review activities who would be subject to employment related pressures that may affect their ability to form independent and objective opinions and conclusions."

Despite these standards, the Committee assigned a review team leader to its review of the Division of Banking Supervision and Regulation even though he had previous program responsibilities which could compromise his independence. The Program's review of this Division included evaluating the Division's periodic reviews of the 12 Reserve Banks to ensure that Board policies were being implemented correctly. At the time of the Program's study, the Division's review responsibilities were new, having recently been transferred from the Board's Division of Bank Operations. The Program's team leader was previously a member of the Division of Bank Operations and conducted reviews of Reserve Banks to ensure that the Board's banking supervision and regulation policies were being implemented. He helped create the review program used in this area by the Division of Bank Operations and subsequently by the Division of Banking Supervision and Regulation. As a result, the team leader had strong personal convictions regarding this particular activity.

Because the Division of Banking Supervision and Regulation's review teams were essentially using his review program to conduct their reviews, the Program's team leader limited the scope of his review of this new but growing activity area. Although one recommendation regarding this area appeared in the report, none of the Program's review steps directly addressed this activity and no evidence was gathered evaluating this area. The Committee's Coordinator for Review Activities indicated that the team leader was chosen because of his expertise in the area and that the Committee was unaware of any review scope restrictions.

The potential for compromising Program review independence also exists when Reserve Bank personnel are used

to review areas with which they have ongoing official relationships. All five team members from the Reserve Banks had ongoing official relationships with the Division of Banking Supervision and Regulation as part of their regular Reserve Bank responsibilities. Several Reserve Bank officials recognized this potential before the Program's review of the Division of Banking Supervision and Regulation. While noting his concern may not be "well founded," one Vice President noted:

"The objectivity with which an individual from a Reserve Bank approaches this assignment could be influenced by the knowledge that individuals from these same divisions at the Board participate in reviewing his operations at the Reserve Bank. This, in turn, could influence the evaluation of the individual himself, as well as influencing the overall evaluation of the bank."

A second Reserve Bank Vice President refused to offer any review team candidates for one of the reviews, noting:

"To select someone from our supervision staff to review and evaluate the division which supervises and reviews his own work or the work of his department is a reversal of the evaluation process which could cause problems. The reviewer could be excessively critical, if he happens to be smarting from having been on the receiving end of a recent unfavorable critique, or, more likely, he could be excessively careful not to criticize, knowing that in the future the shoe will be on the other foot."

The potential for compromising independence is present in future Program efforts. Five of the 12 primary Divisions and offices, which are within the Program's scope of review, are or will be, involved in reviewing Reserve Bank operations in their areas. Since in the first two reviews, Reserve Bank personnel made up a large part of the staff, extensive Reserve Bank personnel participation in future reviews appears likely.

The Program plays a minimal role in report recommendation followup

The Program's policies note that its responsibilities end upon distribution of the final report. Followup on proposed corrective actions is the responsibility of the

Board of Governors, the Offices of the Staff Directors, and division and office management. The Program will be involved only if requested by management. Inconsistent and incomplete followup on report recommendations has resulted.

Professional internal auditing standards note the need for internal audit groups to periodically follow up on their reported audit findings to determine that corrective action was taken and is achieving the desired results, or that management has assumed the risk of not taking corrective action on reported findings. OMB Circular A-73 has also noted the importance of report recommendation followup by requiring executive agencies to establish audit report recommendation followup policies, including designating officials responsible for followup, maintaining a record of the action taken on recommendations, establishing time schedules for responding to and acting upon recommendations, and submitting periodic reports to agency management on action taken.

The current policy of relying on management to follow up on the Program's report recommendations has not produced consistently effective followup actions. No one independent of management is determining that planned actions take place, and one auditee acknowledged that followup on actions taken did not exist because the Board did not require it. Management's initial responses to the Program's May 1979 report were often vague about what actions would be taken or when they would occur. In December 1979, management said that many of these recommendations were under "continuing" consideration, but no record was maintained of the actions taken, no time schedules were established for responses or actions, and no periodic reports were made to top management on actions taken.

Management initially responded to the Program's August 1979 report with a plan outlining the actions to be taken and target dates; however, 25 actions contained no target dates for completion. In contrast with the other auditee, however, this Division maintained records of actions taken in response to the recommendations, although periodic reports to top management had not been initiated as of the completion of our work. In one of the two instances, management also noted that no actions would be taken on those recommendations which it felt were outside its unilateral control.

## Actions to be considered by the Operations Review Committee

At the completion of our fieldwork, the Committee's Coordinator for Review Activities indicated that the Committee will be reassessing the operations of the Program in the near future. He plans to recommend changes in the reporting process and format. While these changes represent improvements to current operations, we believe that many of the problems encountered by the Program are inherent in its nonpermanent nature.

### CONCLUSION

Although the Board has recognized the need for independent evaluations of its operations, it has not established a permanent, independent, internal audit unit. Components of the Office of the Controller, an external auditor hired by the Board, and the Operations Review Program made periodic reviews of the Board's activities. However, none of these groups provide the fully independent, substantive evaluations needed by the Board.

Each of the Board's current review efforts has limitations restricting either its independence or scope of activities. Components of the Office of the Controller make reviews designed primarily to carry out the Controller's responsibilities and therefore enjoy no independent, direct reporting or operating relationship with the Board. These reviewers receive administrative and policy direction from the Controller, who in turn, receives administrative and policy direction from the Board's Staff Director for Management. Although the external auditor reports directly to the Board, its reviews are confined to the financial control areas.

The Operations Review Program, which makes reviews closely resembling those of an internal audit group, has encountered problems. The first arises because it is staffed entirely with part-time personnel detailed from other organizations who may be associated with the activities examined. To illustrate, in one of the two reviews completed to date, a review team leader reduced the scope of the review to avoid compromising his independence. Another problem is that followup on report recommendations has been inconsistent and incomplete because the Board has not made followup a part of normal Program responsibility.

While the Board has considered establishing a permanent internal audit group, management rejected the idea primarily because of a lack of funds and positions. Although a permanent internal audit function has been established in the Office of the Controller and the Board is planning several actions to strengthen the existing review organizations, we believe a permanent, independent audit group would be superior to the existing structure in meeting the established independent evaluation needs of the Board.

To ensure independence, the internal audit group should report to the highest practicable level. One approach would be to report to the Vice Chairman. Another approach would be to draw upon the experience of Federal Reserve Banks and establish an audit review committee consisting of members of the Board of Governors. As discussed in the following chapter, FRS management has supported internal audit organizational independence by encouraging, at each of the individual Reserve Banks, the maintenance of Audit Review Committees consisting of members of the Reserve Banks' board of directors.

#### AGENCY COMMENTS AND OUR EVALUATION

While acknowledging that its Operational Review Program needs strengthening, the Federal Reserve Board of Governors did not agree to establish a permanent, independent internal audit unit. The Board expressed its satisfaction that the current combination of the Office of the Controller, the external auditor, and the new Operational Review Program will satisfy its needs and requirements. The Board believes that the current structure of the Office of the Controller is appropriate, including the placement of an internal audit function within the Office's Systems Improvement Section. In addition, the Board instructed the Vice Chairman to effect improvements in the Operational Review Program's charter in the areas of independence conflicts and followup responsibilities, including hiring a full-time director. The Board's response does not identify the specific improvements under consideration. A member of the Board staff told us that the specific improvements have not been developed as yet. (See Appendix II.)

We continue to believe that a permanent, independent internal audit group should be established by the Board of Governors. The Board's assertion that its placing of internal auditing activities under the Controller, a major auditee, is appropriate, ignores professional internal auditing standards which stress the need for internal auditing activities

to maintain their organizational independence from auditees. This organizational placement is also inconsistent with the internal audit organization practices observed by the rest of the Federal Reserve System.

Although the hiring of a full-time director for the Operational Review Program represents a positive step, other problems identified in our report remain to be addressed. The Program's review staff will continue to be drawn from other System sources on a part-time basis, thereby perpetuating the need for thorough Program scrutiny of each review team member to insure that reviewer independence is not impaired. This screening process has not been fully successful to date. In addition, with the establishment of a permanent Program director, two permanent internal review programs now exist, with potentially duplicative program objectives.

#### RECOMMENDATION

We recommend the Board of Governors establish a permanent, independent internal audit group, consistent with professional internal auditing standards. This unit should be organizationally independent of line management functions and report to the highest practicable level in the organization, either to the Vice Chairman of the Board of Governors or to an audit committee of the Board of Governors chaired by the Vice Chairman.

### CHAPTER 3

#### FEDERAL RESERVE SYSTEM MANAGEMENT SHOULD BROADEN THE ROLE OF FEDERAL RESERVE BANK GENERAL AUDITORS

Although Reserve Bank General Auditors have resource support, organizational independence, professional standards, and a quality control program; they have concentrated nearly exclusively on financial and compliance audits. Traditionally, General Auditors have devoted little effort to

- conducting audits of the efficiency and effectiveness of Reserve Bank supervision and regulation and economic research activities and
- effectively following up on findings identified during Board of Governor's operational reviews of Reserve Bank supervision and regulation and economic research activities.

Uncertainty continues as to what the General Auditors' role should be regarding the evaluation of these activities. Recently, the Staff Director for Federal Reserve Bank Activities proposed that the General Auditors be excluded from reviewing areas involving bank examiners' judgments. This position is inconsistent with professional internal auditing standards which advocate an unrestricted scope of review.

#### MANAGEMENT HAS MAINTAINED PROGRESS TOWARD ESTABLISHING A PROFESSIONAL INTERNAL AUDIT FUNCTION AT EACH RESERVE BANK

FRS management has generally encouraged the development of a professional internal audit function at each Reserve Bank. A System-wide set of standards has been developed, staffing resources have been provided, organizational independence has been achieved, and a quality control system has been established wherein each Reserve Bank internal audit unit is periodically reviewed by a Board of Governor's review team. Historically, the General Auditors have concentrated their efforts in financial and compliance audits in areas of high financial exposure.

FRS management has provided Reserve Bank internal audit units with resource support, organizational independence, professional auditing standards and a quality control system

To be fully effective, an internal audit unit needs adequate staff resources, organizational independence, established performance standards and an effective audit quality control system. Our review of Reserve Bank internal audit operations showed that FRS management has:

- Provided adequate funds, with a 1979 combined operating budget of \$14 million for the 12 General Auditors, ranging from \$2.5 million for New York to \$0.5 million for Minneapolis.
- Assembled qualified audit staffs, with over 67 percent of the System's professional auditing staff members having college degrees, ranging from 95 percent in Philadelphia to 38 percent in San Francisco.
- Supported internal audit organizational independence by encouraging, at each of the individual Reserve Banks, the maintenance of Audit Review Committees consisting of members of the Reserve Banks' board of directors.
- Established in 1936 and updated in 1974 and 1977 a set of System-wide auditing standards and audit frequency guidelines, providing the system with a set of audit approaches and performance standards which include (1) financial audits--verification through count, confirmation, or examination to the degree necessary to establish the accuracy of recorded balances or accountabilities, (2) procedural audits--evaluation, through observations, test and inquiry, of the adequacy and effectiveness of internal control with careful attention to compliance with established policies, procedures, and regulations, (3) transactional audits--review of the underlying documentation supporting recorded transactions for a specified period of time to determine the propriety of supporting documentation, the completeness of recorded transactions, and the adequacy of documents serving as managerial control reports, (4) operational audits--appraisal of the overall efficiency and effectiveness of operations by evaluating the control techniques

used in promoting operational efficiency and effectiveness. Operational auditing is an optional extension of the traditional audit activity designed as a positive service to management.

--Maintained an active quality control system, featuring periodic reviews of the operations of each of the 12 Reserve Bank internal audit units by the Audit Review Section of the Board's Division of Bank Operations.

General Auditors have emphasized financial, transactional and procedural audits of financial activities

Board officials have emphasized that Bank internal audit efforts have been primarily concerned with testing controls in areas of high financial exposure. A breakdown of the 6,968 audits, identified by the General Auditors as having been performed during the period from January 1978 to April 1979, shows that 6,024 were either financial, transactional, or procedural audits; only 163 were operational audits. The remaining 781 audits were combined audits with 297 containing some operational audit aspects.

These audits were heavily concentrated in testing financial controls and procedures, particularly in the valuables handling area. Our review of the 1979 audit plans for the 12 Banks indicates that 88 percent were to be concentrated on reviewing financial controls and procedures.

FEDERAL RESERVE BANK AUDITS OF BANK SUPERVISION AND REGULATION AND ECONOMIC RESEARCH SHOULD BE INCREASED

The General Auditors have concentrated their audit activity in areas of high financial exposure and have rarely reviewed either the efficiency or the effectiveness of their Reserve Bank's supervision and regulation and economic research activities. In addition, General Auditors have not established policies to effectively follow up on findings identified during Board reviews of these activities in their Banks. Although these activity areas do not involve high financial exposure, both are important program areas in which problems have been identified by both the Board reviews and the one review to date performed by a Reserve Bank General Auditor.

The Conference of General Auditors has debated the audit role of the General Auditor in these areas several times. However, no collective approach toward these areas has been formally adopted. Recently, the Staff Director for Federal Reserve Bank Activities proposed that General Auditors be restricted from reviewing areas involving bank examiners' judgments. This proposal is inconsistent with professional internal audit standards which advocate an unrestricted scope of review for internal auditors.

To be of maximum usefulness, the scope of the internal auditor's activity should extend to all agency activities and related management controls. The full scope of an audit of a governmental program, function, activity, or organization should encompass

- an examination of financial transactions, accounts, and reports, including an evaluation of compliance with applicable laws and regulations,
- a review of efficiency and economy in the use of resources, and
- a review to determine whether desired results are effectively achieved.

In addition, with regard to both internal and external audit report recommendations, followup should be made to see that action was taken and is achieving the desired results, or that management has assumed the risk of not taking corrective action on reported findings.

Bank supervision and regulation  
and economic research are important  
system policy activities

At the Board of Governors, Board division and Reserve Bank levels, the bank supervision and regulation and economic research areas are high priority functions. Although the amount of funds expended on the two functions is relatively small, these areas are important from a program perspective.

A paragraph added to section 9 of the Federal Reserve Act in 1917 specifically directs FRS to perform supervisory functions over its member banks. In reference to member banks, it states:

"As a condition of membership such banks shall likewise be subject to examinations made by direction of the Board of Governors of the Federal Reserve System or of the Federal Reserve Bank by examiners selected or approved by the Board of Governors of the Federal Reserve."

Activities under the auspice of the FRS bank supervision and regulation function include bank mergers, applications for new banks, and financial institution supervision.

The overall objectives of the research and statistical function are collecting, preparing, and developing economic and financial information for use by Board, Federal Open Market Committee, and other System officials. Such information is to be used by FRS to formulate credit and monetary policies, to execute supervisory and regulatory responsibilities over financial institutions, to maintain the operational status of the Federal Reserve System, and to produce financial and economic statistics for publication.

The role of the Board in bank supervision and regulation and economic research is one of policy and decision-making and approval of certain applications related to activities of financial institutions. The Board established the policies and regulations to direct the System's administration of the functions, which include monitoring financial institution operations and collecting and processing economic data. In addition, processing certain applications for bank holding companies, acquiring shares in other banks, and establishing new banks require Board approval. A review of the Board's meeting minutes, from August 1978 to August 1979, indicates that, of the 562 issues considered, 348 were directly related to these activities. Recognizing the importance of these activities, two of the four standing committees of the Board specifically address these areas.

These activities have also been recognized as important at the Division level within FRS. The Division of Bank Supervision and Regulation serves as the overall coordinator of FRS activities in the bank supervision area. Generally, the Division is charged with initiating new procedures and developing and implementing Board directives pertaining to general bank examination policies and procedures.

The Division's responsibilities include (1) keeping the Board informed of current and prospective developments in bank supervision and banking structure, (2) coordinating the System's bank supervision and examining activities, and (3) processing and presenting to the Board various types of applications for prior consent to form or expand bank holding companies or make other changes in banking structure. Although the Board has delegated some application approval authority to the Reserve Banks, the Division still has overall responsibility for coordinating application processing in the System. Division involvement also includes special bank and bank holding company examinations and participation in the training of Reserve Bank examiners.

Similarly, the Research and Statistics Division serves as the focal point for preparing statistical data for FRS use. Generally, the Division develops economic and financial information, which covers such areas as Government mortgage and consumer finance, capital markets, and general business conditions. After analyzing the data, the Division presents the analyses to the Board, the Federal Open Market Committee, and the general public.

Although the Board of Governors issues the policies adhered to by the Reserve Banks in administering their bank supervision and regulation and research functions, the Reserve Banks have very distinct and important implementation responsibilities. All 12 Reserve Banks have established specific bank supervision and regulation and economic research departments within their organizational structures. The Reserve Banks, under delegated authority from the Board, are responsible for the administration of bank supervision, including the examination of State member banks and bank holding companies.

In 1979, the Reserve Banks conducted 988 examinations of member banks and 581 examinations of bank holding companies. In September 1979, their application approval authority was increased by the Board, providing them with authority to approve certain bank holding company or merger applications and to prepare all competitive factor reports on mergers decided by the Comptroller of the Currency and the Federal Deposit Insurance Corporation. Each Reserve Bank's economic research function collects, processes, and transmits approximately 80 statistical reports to the Board as its primary activity. Generally, Reserve Bank departments of research, bank supervision and regulation, and accounting are responsible for producing these reports.

Limited reviews of bank supervision  
and regulation and economic research  
activities have identified problems

Reviews of bank supervision and regulation and economic research activities conducted by Board of Governors review teams have identified a variety of problems associated with the implementation of these functions. In addition, the one economy and efficiency review of bank regulation and supervision activities performed by a Reserve Bank General Auditor, also identified a variety of problem areas.

In the bank supervision and regulation area, Board review teams have identified a variety of problems. The overall objective of these limited reviews is to determine if Reserve Banks are providing an adequate framework, through their practices and policies, to effectively regulate and supervise their member institutions.

Using a questionnaire approach, Board review teams consisting of three to five members, perform 1 to 2 week onsite reviews of Reserve Banks under the direction of the Division of Bank Supervision and Regulation. These reviews are generally performed once every 3 years and Board followup does not normally occur until the next review.

The seven reports completed by Board review teams during the period from June 1977 to March 1979 contained 138 separate recommendations. Most of these recommendations were directed toward commercial examinations, bank holding company inspections, and general administrative duties. For example:

- Forward all significant correspondence received from member banks to the Board to fully inform it of concerns on a current basis.
- Request specific action plans from bank holding companies on how problems will be addressed if findings reveal capital deficiencies.
- Discontinue the practice of listing details in examination reports which include information on each public fund deposit.
- Institute a formal restructuring of divisional responsibilities.
- Establish internal time limits for every major phase of the report processing cycle.

As in the bank supervision and regulation area, Board review teams perform limited reviews of the Reserve Bank activities in the research and statistical area and have determined that problems exist in the Reserve Bank's administration of the function. The objective of the review is to determine the effectiveness and efficiency of operating procedures, including identifications of operational problems and issues with possible System-wide impact. A team, usually consisting of four members, performs a 1-week onsite review of the function at Reserve Banks. The teams generally perform these reviews once every 4 years and followups to prior reviews usually occur at this time. From December 1978 to June 1979, Board teams reviewed the function at four Reserve Banks, making a total of 192 recommendations. Specific examples of these recommendations include:

- Instituting an additional control mechanism to monitor the flow of reports to data processing.
- Establishing adequate backup systems for processing data.
- Establishing internal guidelines to serve as guideposts for an orderly progression to the Board's deadlines.

In addition to the problems identified in Board reviews the one economy and efficiency review of bank supervision and regulation and economic research activities performed by a Reserve Bank General Auditor during the period from January 1978 to April 1979, also identified performance problems. The San Francisco General Auditor reviewed his Reserve Bank's supervision and regulation activities in 1978 to determine whether (1) the section's policies and procedures provided a framework for effective supervision of State member banks, (2) the section followed Reserve Bank and FRS required procedures, (3) the section was operating in a cost-effective manner, and (4) the section's supervision and administration were effective and efficient. The scope included a review of examination planning, workpapers generated during the examination, completed reports, and onsite observations of opening and closing discussions of an examination. The General Auditor's findings on commercial examination by the Reserve Bank included:

- Time was insufficiently allocated for an indepth examination of the member bank audit department.
- Documentation citing the reason the Reserve Bank did not address certain areas in its examination was lacking.
- Evidence was unclear and documentation of supervisory review of evidence was lacking.
- Fieldwork that was incomplete at the close of the examination was not clearly indicated, and follow-up procedures were not formalized.
- A standardized format, to inform the examiner-in-charge of violations, exceptions, and recommendations, was not used.
- Meetings with the bank directors were not always held at the close of an examination.

As indicated above, both of these activities, when reviewed, have been found to contain reportable items needing management attention.

General Auditors have not effectively addressed the efficiency and effectiveness of bank supervision and regulation and economic research functions

Although operational problems have been identified in bank supervision and regulation and economic research functions, General Auditors have not, except in the instance discussed above, reviewed either the efficiency or effectiveness of these functions in their Reserve Banks. In addition, General Auditor policies generally do not require the timely followup of recommendations made by Board review teams in these activity areas. No collective, System-wide approach toward auditing these areas has been formally adopted, although the Conference of General Auditors debated its role in these areas several times. Board support of this expanded role has also been uneven, contributing to the uncertainty which has surrounded these activities. The Board's Staff Director for Federal Reserve Bank Activities recently proposed that the General Auditor be excluded from reviewing areas involving bank examiner judgments. This position is inconsistent with existing professional internal

auditing standards which prescribe an unrestricted scope of review for internal auditors.

General Auditors rarely perform operational reviews of bank supervision and regulation and economic research activities

Operational reviews, which Conference of General Auditors defines as reviews of a function's efficiency and effectiveness, have generally not been performed by General Auditors in the areas of bank supervision and regulation and economic research. Of the 6,968 audits performed from January 1978 through April 1979, only 1 involved the economy and efficiency of bank supervision and regulation activities. Further, in 1979, only 2 of the 12 General Auditors' audit plans indicated that this activity area would be reviewed. In the economic research area, none of them performed operational reviews during the period from January 1978 to April 1979; only 1 planned work in this area during 1979.

The General Auditors have cited a variety of reasons for the low level of attention given to these areas. In the bank supervision and regulation area, they have said that

- they lack the legal authority from the Board of Governors to audit the function,
- their staff is not qualified to perform such audits, and
- the Board of Governors' Division of Bank Supervision and Regulation reviews the function at Reserve Banks.

In the economic research area, General Auditors have said that they believe special training will be needed before they can adequately address this area. In response, a Board staff characterized these reasons as "non-defensible," in that

- no legal impairments to audit activities in this area could be identified;
- audit departments, when confronted by new areas, such as electronic data processing, have historically found ways to acquire any needed specialized expertise; and

--Board involvement in the subject area is no different than in other areas (such as cash) where Board and Bank internal auditors both perform reviews of the same activities.

Both the Board members and the responsible Board staff officials we interviewed did not believe the General Auditors were legally restricted from fully reviewing these operational areas.

While the Conference of General Auditors has developed System-wide approaches to other specialized areas, such as electronic data processing, it has not developed a System-wide position on the General Auditors' role in reviewing bank supervision and regulation and economic research activities. Both the Conference and the Assistant General Auditors Conference have reviewed this question several times. For example, in the June 1978 Conference of General Auditors' meeting, the General Auditors discussed the proper level of audit attention for these areas. But, instead of adopting a System-wide approach, the General Auditors passed a motion to leave the decision of attention to the individual Reserve Banks. The General Auditors again discussed the issue in the June 1979 meeting and, this time, referred the question to the Assistant General Auditors Conference for consideration. This Conference, meeting in August 1979, passed the following recommendation:

"The Assistant General Auditors recognize the appropriateness of maintaining an audit presence in all areas of Bank activities. To ensure that the supervision and regulation function of each Federal Reserve Bank is appropriately reviewed by internal audit, we suggest that the Conference of General Auditors, through the Steering Committee, appoint an Ad Hoc Task Force for the purpose of studying, developing and recommending guidelines to be used in making such reviews."

Meeting in November 1979, the Conference of General Auditors set up an ad hoc committee to study this area again.

This reluctance to become involved in reviewing these areas, has in part, been encouraged by the Board staff's own uncertain position. While Division of Federal Reserve Bank Operations officials have issued strong unofficial positions that General Auditors should be reviewing these

areas, as of November 1979, no General Auditor reviewed by this same Division had ever been criticized for not performing work in these areas because the Board staff felt the Board's official policy on this matter was unclear.

In September 1979, the Staff Director for Federal Reserve Bank Activities proposed a statement of position, which was adopted by the Conference of Federal Reserve Bank Presidents, addressing internal auditing's role in these areas. While the statement supported auditor involvement in these areas, it also characterized their role as performing something other than "substantive operational reviews":

"The General Auditor should have access to all areas of the Bank for the purpose of performing financial audits, which includes verifying department management's compliance with Bank and Board policy, controls, and budgeted staff and expenditure levels. We have not advocated that the General Auditor perform substantive operational reviews which involve evaluation of the effectiveness of a function or the competence of professional staff in such areas as research, legal, bank supervision and regulation, and public information. We do feel that it would be appropriate, however, for the General Auditor to call to the attention of Bank management observed idle time of employees due to overstaffing, and like situations that are related to resource utilization. In my judgment, it would not be within this purview to decide or recommend optimal staffing levels or to intrude into how resources are used or other similar questions which are clearly the prerogative of department management. This is obviously a fine line of distinction. Our staff calls upon the General Auditor to follow up on operational reviews in all areas, and we would expect to continue to do so."

As of February 1980, the Staff Director for Federal Reserve Bank Activities indicated that neither the Board nor the Conference of General Auditors had formally supported his statement of position, although he has received informal support for the statement from both Board officials and

Reserve Bank General Auditors. While noting that the statement needs to be further defined in terms of specific operational situations, the Staff Director indicated that he expected the Conference of General Auditors to support his position.

The Staff Director for Federal Reserve Bank Activities believes his statement should be interpreted as to exclude General Auditors from performing operational reviews of areas involving bank examiners' judgments. The Staff Director believes that this area is a uniquely sensitive function, meriting exclusion from the General Auditors' scope of review. He also acknowledged that his position is not consistent with the unrestricted review scope advocated by professional internal auditing standards.

While we recognize the special sensitivity involved in performing operational reviews of bank examination and supervision activities, we believe that, to be of maximum effectiveness, internal audit units should have unrestricted scopes of reviews. We believe that with appropriately qualified staffs, internal auditors can provide meaningful evaluations of sensitive issue areas, including examiner compliance with established examination policies and procedures. One such audit has already been completed by a General Auditor.

Reserve Bank report recommendation  
followup policies do not effectively  
address Board operational reviews of  
bank supervision and regulation and  
economic research activities

While FRS management has established an informal System-wide position advocating the followup of Board operational reviews of bank supervision and regulation and economic research activities, individual Reserve Bank policies have not incorporated the System-wide position and do not effectively address this area of followup.

While the Conference of General Auditors has established specific System-wide approaches regarding many internal audit activities, the followup of Board operational reviews is not addressed specifically. Within the Conference's System-wide standards, the need to follow up on the status of audit report recommendations is addressed in the due professional care area. Specifically, this section states:

"Due professional care also includes follow-up work on findings resulting from similar audits made previously to determine whether appropriate corrective measures have been taken."

No specific reference is made with regard to followup responsibilities for Board operational reviews.

Although no System-wide policy exists, Board practices and statements by Board officials have encouraged the establishment of report recommendation followup systems within each Reserve Bank internal audit unit. Board review teams specifically evaluate this area and have reported deficiencies in their reports to bank management. Board officials have also reiterated to the General Auditors, on several occasions, their unofficial view that General Auditors should follow up on all Board operational reviews.

While General Auditors have been encouraged to follow up on Board operational reviews, our review of the individual report recommendation followup policies at each of the 12 Reserve Banks indicates that many policies do not effectively address followup of Board operational audits in the bank supervision and regulation and economic research areas. Of the 12 policies reviewed, 7 call for the General Auditor to follow up on Board recommendations during their next review of the area; 2 call for followup within a specific time frame; 2 did not have specific timeframes for followup; and 1 indicates that followup will be based on management's response. Of the 7 Reserve Banks whose policies call for followup on Board recommendations during their next review of the area, only 1 Bank has conducted such a review. Therefore, in practice, Board recommendations would not be subject to routine followup at those 6 Reserve Banks where such action is provided for in their policies but not carried out.

#### CONCLUSION

Reserve Bank internal audit units are staffed with qualified auditors, organizationally independent, and aligned to report to the highest practicable level. In addition, management has established a System-wide set of auditing standards and a quality control review program, which reviews Reserve Bank internal audit operations on a periodic basis. Reserve Bank internal audit units have concentrated their efforts on financial and compliance audits of areas of high financial exposure.

Although Reserve Bank internal audit units have performed many audits, General Auditor attention to the efficiency and effectiveness of bank supervision and regulation and economic

research activities has been extremely limited. In addition, General Auditor report recommendation followup policies generally do not call for the effective followup of Board reviews of supervision and regulation and economic research activities. As a result, these important policy areas are receiving minimal coverage, even though findings have resulted from the limited work performed to date. General Auditors are uncertain as to the coverage management wants them to provide in these areas. The Staff Director for Federal Reserve Bank Activities has proposed that the General Auditor be excluded from reviewing areas involving bank examiners' judgments. This position is inconsistent with existing professional internal auditing standards which advocate an unrestricted scope of review for internal auditors.

#### AGENCY COMMENTS AND OUR EVALUATION

Although the Board indicated that it generally agreed with our comments relative to Federal Reserve Bank internal auditing activities, the Board did not agree to clearly support an unrestricted scope of review for Bank internal auditors and clarify Bank internal auditor followup activities. The Board's position regarding the scope of review for Bank internal auditors remains unclear. Although the Board stated its belief that all staff functions should be subject to the same potential for audit attention as other Reserve Bank operations, the Board also qualified internal auditors' scope of review in these areas to exclude any evaluation of professional efficiency and effectiveness as well as the end product of professional staff work. This restriction is significant, because professional activities dominate both the supervision and regulation and the economic research areas. (See Appendix II.)

We continue to believe that Federal Reserve Bank internal auditors should have a clear, unrestricted scope of review, extending into the professional activities of these staff functions. Such a scope of review would be consistent with professional internal auditing standards.

#### RECOMMENDATIONS

We recommend that the Chairman, Board of Governors of the Federal Reserve System:

- Require that Reserve Bank General Auditors review the efficiency and effectiveness of bank supervision and regulation and economic research activities.

--Instruct the Conference of General Auditors to amend their "Audit Standards and Levels of Audit Attention for Federal Reserve Banks" to include a System-wide approach toward reviewing bank supervision and regulation and economic research activities and a specific operational policy statement requiring the followup of Board of Governor's reviews by General Auditors. These changes should be made within a specific timetable which the Board of Governors should monitor.

## CHAPTER 4

### SCOPE OF REVIEW

Our findings and conclusions are based on work performed at the Board of Governors in Washington, D.C., and at the Federal Reserve Banks of New York, the largest Federal Reserve Bank, and Boston, a representative smaller Bank. Our overall evaluation addressed eight areas of internal audit activity: scope, organizational placement, program planning, staffing, training, report quality, report recommendation and followup, and coordination with external auditors.

In addition to our onsite work at New York and Boston, we obtained and analyzed budgets, audit program plans, report recommendation followup policies, and staffing qualifications from the other 10 Reserve Banks. We also reviewed the workpapers for the last five full scope reviews of individual Reserve Bank General Auditor units performed (as of May 1979) by the Board's Audit Review Section within the Division of Federal Reserve Bank Operations.

The Organizational Structure and Management  
Control Strategy of the Federal Reserve System

The Federal Reserve System is a large and complex organization which functions as the central bank of the United States. FRS formulates and implements a wide range of financial policies dealing with such areas as monetary activities, Federal Reserve Bank activities, commercial banks' supervision and regulation, and internal management activities of the Board of Governors. To formulate and implement these policies effectively and efficiently, the System's management control strategy consists of a functionally aligned organizational structure supported and coordinated by various information processes, including an extensive budgetary process. Information flows by means of these processes from operating levels to policymaking levels where the information is evaluated and decisions are made. To supplement these other controls, FRS also uses internal audit as a part of its management control strategy.

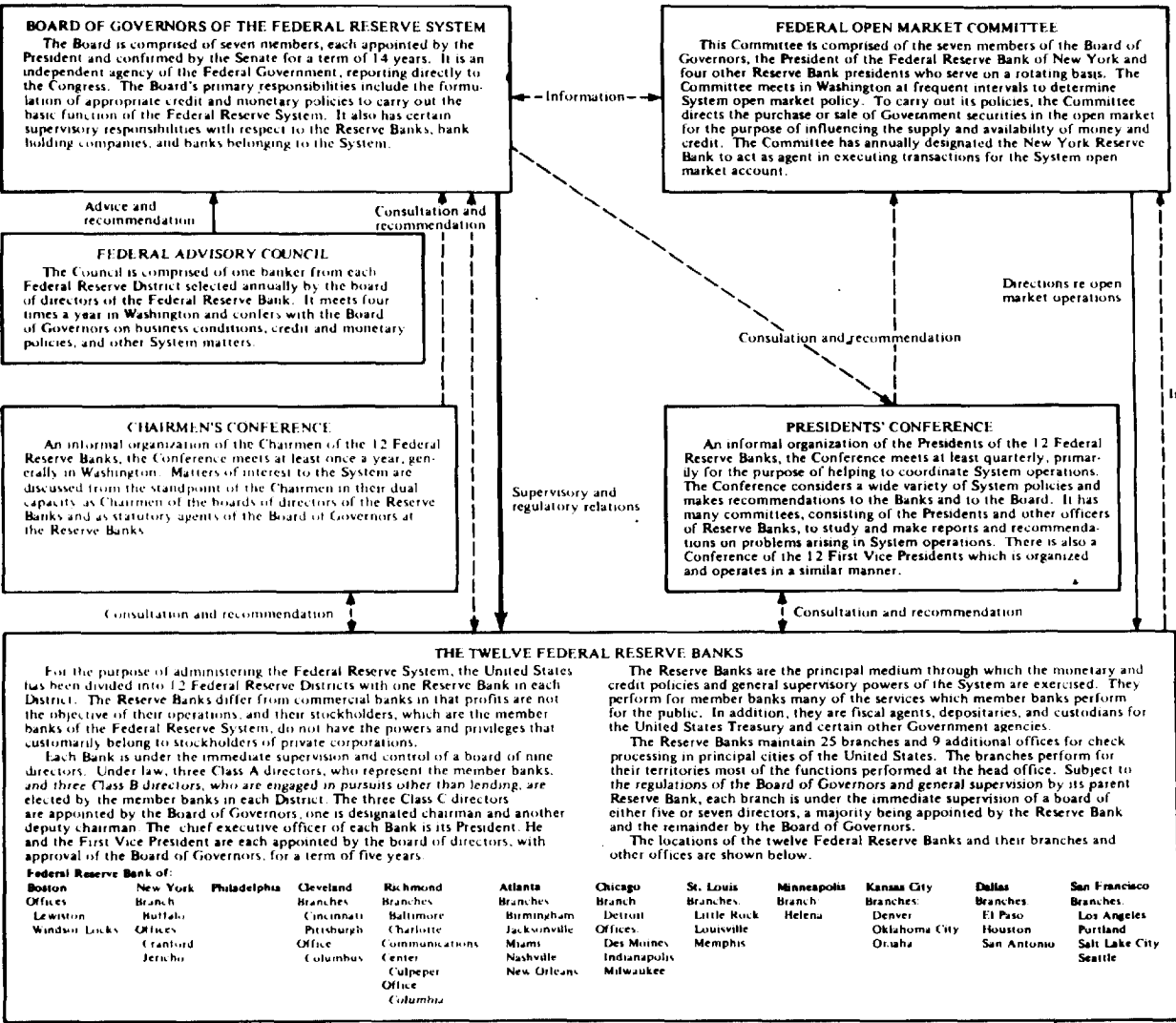
ORGANIZATIONAL STRUCTURE

The Federal Reserve System includes the Board of Governors, the Federal Reserve Banks and their branches, and the nearly 5,500 commercial banks that are members of the System. The System has been organized on a decentralized basis within two basic tiers:

- The Board of Governors, including their 13 supporting operating divisions and offices.
- The 12 Federal Reserve Banks and their 25 branches, serving and supervising their member banks.

These tiers are supported by a number of System conferences and committees which consider System-wide questions and act as coordination mechanisms. The following organization chart shows the primary duties of the important components of FRS.

**THE FEDERAL RESERVE SYSTEM**  
 The basic function of the Federal Reserve System is to make possible a flow of credit and money that will foster orderly economic growth and a stable dollar, encourage business and employment, and facilitate long-run balance in our international payments. The System was created by the Federal Reserve Act which became law on December 23, 1913. The statute provides for a Board of Governors in Washington, the 12 Federal Reserve Banks and their branches, the Federal Open Market Committee, the Federal Advisory Council, and the member banks. The relationships of those groups are indicated below. Solid lines indicate statutory relationships, broken lines, an informal relationship.



**MEMBER BANKS**  
 All national banks are required by law to be members of the System. Banks with State charters may voluntarily join the System, if qualified for membership, upon approval by the Board of Governors. Somewhat less than half of all banks in the United States belong to the System but these banks hold about 78 per cent of the country's total bank deposits. Each member bank is required to hold stock in its Federal Reserve Bank in an amount equal to 3 per cent of the member's capital and surplus. Each member bank is also required to maintain its legal reserves with its Federal Reserve Bank and comply with other System regulations. In return, member banks are entitled (1) to borrow from the Reserve Banks, (2) to use System facilities for check clearance and transfer of funds; (3) to obtain currency; and (4) to share in the informational facilities provided by the System.



### MANAGEMENT CONTROL STRATEGY

Within the Federal Reserve System, management control is achieved through a functional organizational structure, supplemented by formal management reporting systems. FRS management makes extensive use of budgetary systems within their management control system.

Management control begins with delegated authority and planned operations, continues through performance, and includes reporting on performance. A well-designed system of management control helps to insure efficiency, economy, and achievement of planned results. Such a system includes carefully devised and frequently updated standards for designing, conducting, and measuring the output of programs and operations. The essence of management control is the action which adjusts operations to conform with prescribed or desired standards or requirements. To take this action, management needs timely and adequate information on performance.

To increase FRS efficiency and effectiveness, FRS has numerous efforts at all management levels to acquire and analyze data pertaining to its operational functions. Information flows continuously up and down the agency to various management levels where it is evaluated and used within the decisionmaking process to plan, manage and control FRS activities. Each organizational level is responsible for administering delegated authority and reporting on performance to a higher management level. The System's functional organizational structure facilitates its management control approach by requiring major operating functions to be reviewed at each organizational level.

### Federal Reserve System Budget

In addition to line management's continuous review and monitoring of performance information, FRS has instituted formalized budget review processes which include periodic reporting and monitoring mechanisms. Both Board of Governors' operating divisions and offices and individual Reserve districts are controlled by operating budgets, formulated, approved, implemented, and monitored under directives of the Board of Governors.

Board of Governors Division and Office budgets are formulated, implemented, and monitored at the Board level. To initiate the process, in mid-summer, Board divisions and offices submit tentative budget estimates to the Controller. The Controller merges these proposals with other known and anticipated factors into a projected budget level and submits it to the Chairman and Vice Chairman of the Board. Based on their review of the consolidated proposal, the two Governors establish budget guidelines, such as the percentage limitation by which the new budget shall exceed the present estimated expenses. The Divisions are governed by these guidelines when formulating their budget proposals; for example; the Board approved a 1979 budget guidelines allowing an increase of 7.35 percent above current year expenses.

After budget proposals are initially formulated by the Divisions, they are reviewed by the Controller and the cognizant Board committees. Initially, Division and Office directors meet with the Controller and the Staff Director for Management to negotiate their budget proposals. Similar meetings are held with the responsible Board committee. Following these reviews, the Controller and the Board committees combine the resulting individual proposals into a consolidated budget and present it to the Vice Chairman, who determines whether to accept the proposal or to institute changes. Following his review the Vice Chairman presents the budget to the entire Board for final approval.

Following Board approval, budget implementation occurs under delegated authority from the Chairman of the Board to the Vice Chairman. While the Vice Chairman must approve changes to the headquarters budget up to 1-1/2 percent beyond the Board-approved operating plan, most budget implementation responsibilities extend to Board Division and Office management.

The Controller is responsible for monitoring the cumulative totals of administrative actions so the Chairman and Vice Chairman are kept informed as to when expenditures are approaching budget limitations. Board Division financial reports are generated automatically each month. The Controller reviews these reports and informally reports to the Board quarterly. Also, the Controller, on a formal basis, presents mid- and end-of-year reports to the Board on the performance of division offices. These reports are very extensive and include information on the financial performance of each Division, positions and employment information,

program changes, data processing, resources utilization performance, and the effects of new bank legislation on Board manpower. These reports are based on information which is provided to the Controller by Board Divisions and Offices.

Similar to the Board budget process, the individual budgets of the 12 Federal Reserve Banks are also approved and monitored on a System-wide basis by the Board of Governors. Initially, each Reserve Bank submits tentative objectives and goals to its Board of Directors, who, after a review, submits them to the Board of Governors. These proposals are reviewed and evaluated by a review team consisting of the Board's Committee on Federal Reserve Bank Activities, the Staff Director for Federal Reserve Bank Activities, the Division of Federal Reserve Bank Operations personnel, and representatives from the Conferences of Federal Reserve Bank Presidents and Vice Presidents. This review team considers are projected System goals, economic conditions, current level of System operations, and historical performance. The review team formalizes System-wide budget objectives and presents them to the Board of Governors for approval. Upon approval, these System-wide objectives are distributed to each Reserve Bank President as guidelines to use in formulating initial budget submissions. In September, each Reserve Bank submits preliminary district budgets to the Division for Federal Reserve Bank Operations, where they are analyzed on an individual basis. Upon completion of this analysis, the review team and the individual Reserve Bank presidents and Vice Presidents meet and negotiate the submissions. Following this review, the Reserve Banks revise their initial submissions, if necessary, and resubmit their final budgets to the same headquarters review group. If no additional changes are required, the Board Committee on Federal Reserve Bank Activities submits the consolidated requests to the full Board for final approval.

Reserve Bank budget implementation responsibilities are split among Reserve Bank management, Board Divisions, and the Staff Director for Federal Reserve Bank Activities, depending upon the size and nature of the activity being implemented. Board divisions have approval authority over some Reserve Bank activities, such as major employee compensation decisions or large contracts. In addition, the Staff

Director for Federal Reserve Bank Activities, who is responsible for System-wide management of resources, may also need to approve an item, depending on the nature and cost of the expenditure.

A System-wide reporting network exists to determine how effectively Reserve Banks are managing within their budget. Quarterly monitoring of performance relative to goals is done through the planning and control system (PACS). Under the PACS' reporting system, each Reserve Bank quarterly submits to the Board the actual expense charged against the budget by service line items. Based on this information, which also includes the number of employees and the volume of production, the Board generates PACS reports, wherein the Board can determine the cost versus the performance of each Reserve Bank. Two types of cost measures are provided--a time series measure and a cross sectional or inter-district measure. The time series measure compares the expense of producing this year's volume of products with the expense of producing the same volume at last year's cost level. The cross sectional measure compares a district's expense with the expense of producing the district's volume at System average cost levels. The units of measurement are the number of items processed. This system accounts for approximately 80 percent of the Reserve Bank expenses since certain activities, such as research and bank supervision and regulation are not readily quantifiable. Based on PACS information, the Division of Federal Reserve Bank Operations presents mid- and end-of year reports to the Board on Bank budget performance. PACS information is also included in the Staff Director for Federal Reserve Bank Activities' annual reports to the Committee on Federal Reserve Bank Activities on the individual Reserve Banks' performance. These reports are to be used as components in the annual evaluation of the Reserve Banks, made by the Committee on Federal Reserve Bank Activities, which includes recommendations on salary increases for Reserve Bank officials.

In addition to the Board of Governors' monitoring activities, an internal expense budget network has been established within each Federal Reserve Bank to track expenses against the Reserve Banks' budget down to departmental levels. Reports are submitted to the Reserve Banks' Board of Directors and need not be shared with the Board of Governors.

### Delegated authority reporting

Another form of Federal Reserve Bank reporting to the Board deals with delegated authority. The Reserve Banks must report weekly to the Board on any action taken under delegated authority. Each report to the Secretary of the Board must include information on actions taken regarding (1) supervisory matters, including financial institution applications accepted by the Reserve Bank during the week and (2) Reserve Bank operational matters under delegated authority such as certain contracting decisions. These weekly reports must list: delegated item number, date action taken and rationale of action taken, dollar consideration, etc. Each Reserve Bank is also required to provide the Staff Director for Federal Reserve Bank Activities and the Director of Division of Personnel with quarterly reports on decisions made under delegated authority pertaining to Reserve Bank examinations, budgets, and operations and personnel matters, respectively.

### Internal auditing role in FRS management control systems

Within FRS, internal auditing activities and resources have been concentrated at the Reserve Bank level. While no permanent, independent internal audit group has been established at the Board of Governors, each of the 12 Reserve Banks has an internal audit group. These Reserve Bank internal audit groups have been used primarily to supply Bank management with independent evaluations of Reserve Bank operations, particularly in the area of financial controls. (See report chapter 3.) In addition to these Reserve Bank internal audit groups, several Board operating Divisions also perform periodic operational and financial reviews of selected Reserve Bank activities. The results of these reviews are reported to Reserve Bank management and the appropriate Board standing committee.



BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM  
WASHINGTON, D. C. 20551

May 7, 1980

Mr. Allen R. Voss  
Director, General Government Division  
U. S. General Accounting Office  
Washington, D. C. 20548

Dear Mr. Voss:

Thank you for the opportunity to review and respond to the draft report of the General Accounting Office ("GAO") on the Federal Reserve System's Use of Internal Auditing. Since the report makes separate recommendations with respect to the Board and the Federal Reserve Banks, the recommendations are treated separately, below.

GAO's Recommendation with Respect to the Use of Internal Auditing

It is the Board's belief that the present combination of its Operations Review Program ("ORP"), Office of the Controller, and external auditor have served and can continue to serve the needs of the Board well in the areas of operations review and financial controls. However, it is also the Board's belief that some immediate refinements in the areas of independence conflicts and follow-up can be made to improve the effectiveness of the ORP's operations.

The GAO is correct in observing that the Office of the Controller is limited to the financial and operational control area and, in the case of its line operations, reports to the Board through the Staff Director for Management. However, the Controller has enjoyed and will continue to enjoy a direct reporting relationship to the Board on matters falling within his jurisdiction that he feels must be brought to the attention of the Board directly. These areas include, but are not limited to, investigations of fraud and waste, inappropriate use or inadequate protection of the Board's assets, and improper functioning of the Board's financial controls. While the staff of the Office of the Controller specifically assigned to these functions report to him on all matters, this reporting chain is necessary and not unusual as the responsibility for these functions is vested in the Controller who employs staff to assist him in these matters. Even in the presence of an internal auditing group such as is recommended by GAO, the Office of the Controller would continue to perform the above functions and enjoy a direct reporting relationship to the Board.

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GAO is also correct in observing that the external auditor's activities are limited to the area of financial controls. Again, even in the presence of an internal auditing group such as GAO recommends, the Board would continue to employ an external auditor for those functions currently performed.

Since the ORP would most immediately be affected if the Board were to adopt GAO's recommendation, the remainder of these comments address the issues raised by GAO in its report on that program.

The ORP was established by the Board in mid-1978 with the help of the Board's external auditors in order to bridge the one gap that existed in the Board's internal auditing functions, i.e., compliance, efficiency and effectiveness reviews of the Board's operations. Various alternative structures were considered at that time but the ORP structure was adopted for several reasons:

- to insure the availability of staff who knew the nature of the Board's operations;
- to provide an educational vehicle for divisions through participation on the Operational Review Committee ("ORC") and the review teams;
- to use an already available pool of System resources trained in operational reviews; and
- to maximize the probability of identifying areas for improvement and implementing solutions once derived.

It was also felt that the size of the Board's staff would not warrant the staff that would have to be retained in order to have the experts trained in the areas of the Board's business and operations reviews. It is the Board's belief that these reasons are still applicable today.

Three additional aspects of the ORP's background are worth noting to put the issues that GAO raises in perspective.

First, during its first year of operations the ORP, as expected, experienced start-up difficulties. In December 1979, recommendations were made to the Vice Chairman to remedy those difficulties that were identified. The ORC will continue to monitor its operations carefully and make recommendations to the Vice Chairman to take account of deficiencies in its charter and mode of operations.

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Second, no follow-up responsibility was given to the ORP on its report recommendations since it would frustrate the ability to attract qualified staff for the ad hoc reviews. It is now recognized that follow-up actions, when left to line management, might produce inconsistent results and that reviews can be more effective with planned follow-up reviews.

Finally, anticipating that there would be independence conflict questions, the ORP's charter incorporated precautions to guard against such conflicts. These precautions have been and will continue to be applied aggressively. Each team member is examined carefully for potential conflicts and actions are taken by the ORC to preclude conflicts. In the event that a conflict cannot be resolved, team members would be disqualified. In the event that it would be desirable to retain an individual for a review, the review of the program causing the disqualification would be postponed until some later time. It is not the ORP's mandate to review all of a division's operations at one time.

The single instance cited in the GAO report to demonstrate that the Board's ORP operations are hampered by the use of part-time personnel involved the unilateral action by the team leader of a review in deleting from the scope of the review a function that he helped establish and that had been recently transferred to the reviewed division at the time of the review. Presumably, had the ORC known that a conflict existed, it would have taken appropriate measures to resolve the conflict. Because of the team leader's expertise in the operations of the division under review, if no other measures could be found to avoid the conflict, the ORC itself had the option to delete the program from the scope of the review in favor of a later review and retention of the team leader. The ORP is not charged with reviewing whole divisions at any one time. Any programs so deleted from a review will be reviewed at a later date.

The Board is satisfied that the current combination of the Office of the Controller, the external auditor; and the Operational Review Program are satisfying its needs and requirements in the areas of operations reviews and financial controls. In addition, the reasons that were present at the time that the ORP structure was adopted still exist today. The Board has no substantive evidence to permit the conclusion that the ORP is not producing substantive results. The GAO report acknowledges that the two reviews conducted prior to the time of the GAO study surfaced many good recommendations. However, in view of the first year's experience with the ORP's operations and the insights offered by the GAO report, the Board has asked the Vice Chairman to effect improvements in the ORP's charter in the areas of independence conflicts and follow-up responsibilities including hiring a full-time director of ORP review activities. It is expected that these improvements will be made by July 1, 1980.

Mr. Allen R. Voss

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GAO's Recommendations with Respect to the Federal Reserve Banks

The Board of Governors has considered and is in general agreement with the report comments relating to the appropriateness of audit involvement and follow-up activities in Reserve Bank research and bank supervision and regulation functions.

The Board has concluded that these and all staff functions should be subject to the same potential for audit attention as are other Reserve Bank operations. The scope of this audit attention should include review of the management of resources in compliance with established policies and procedures. However, the scope of such attention should exclude any evaluation of professional efficiency and effectiveness as well as the end product of professional staff work. This focus should result in audit evaluations of the level of compliance with prescribed policy and procedures and evaluations of administrative efficiency and effectiveness of staff functions.

This conclusion acknowledges that, traditionally, System audit resources have been dedicated largely to those operating areas characterized by vulnerability to financial loss or related embarrassment to the Banks. The Board believes that regular independent audit attention to staff functions that involve different kinds of risks would be similarly useful to System management.

This conclusion is being communicated to all Federal Reserve Banks. In addition, the Board's position was discussed with the Conference of General Auditors which then passed a resolution charging a task force with responsibility for developing a core program for use by all General Auditors in conducting reviews of research and bank supervision and regulation functions.

In the Board's opinion, its endorsement of the appropriateness of regular audit involvement in Reserve Bank staff functions obviates specific action on audit's follow-up on Board reviews of research and supervision and regulation. The endorsement is expected to clarify the question of audit presence in these areas so that the accomplishment of audit follow-up in staff functions will be similar to that which has been consistently performed for Board attention in other areas.

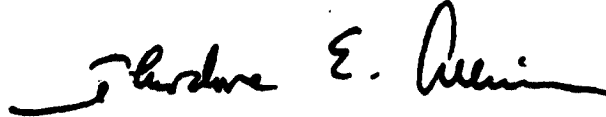
As a point of clarification, the Board wishes to advise the General Accounting Office of an apparent misunderstanding of the opinion of the Staff Director for Federal Reserve Bank Activities on audit involvement in testing for examiner compliance. The Staff Director does not believe that auditors should be excluded from assessing examiners' performance in complying with prescribed policies and procedures. This apparent misunderstanding is represented in the report on pages IV, 18, 21, 30, and 32. (See GAO note on p. 48.)

Mr. Allen R. Voss

- 5 -

We appreciate the opportunity to comment on the GAO report and for the professional manner in which your entire staff conducted itself during the study.

Sincerely yours,



Theodore E. Allison  
Secretary of the Board

GAO note: As shown on pages IV, 19, 22, 31, and 33, the statement of the Staff Director for Federal Reserve Bank Activities was revised to recognize that he proposed that General Auditors be excluded from areas involving bank examiner judgments.



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## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 10, 2014

### **H.R. 5018** **Federal Reserve Accountability and Transparency Act of 2014**

*As ordered reported by the House Committee on Financial Services on July 30, 2014*

#### **SUMMARY**

H.R. 5018 would make a number of changes to the operations of the Federal Reserve System. The changes would include requiring new regulations issued by the Board of Governors to include a cost-benefit analysis that takes into account specified factors; requiring employees of the Board of Governors to follow a system of ethics standards currently applied to employees of the Securities and Exchange Commission; and requiring the Federal Open Market Committee to generate and provide to the Congress a monetary policy rule that meets certain requirements, and the Government Accountability Office (GAO) to assess any changes to the rule for compliance with those requirements.

CBO estimates that enacting H.R. 5018 would reduce revenues by \$61 million over the 2015-2024 period; therefore, pay-as-you-go procedures apply. H.R. 5018 would not affect direct spending. Further, CBO estimates that the bill would increase discretionary spending by GAO by \$2 million over the 2015-2019 period, assuming appropriation of the necessary amounts.

H.R. 5018 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

#### **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary effect of H.R. 5018 is shown in the following table. The costs of this legislation fall within budget function 800 (General Government).

	By Fiscal Year, in Millions of Dollars										2015-	2015-
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2019	2024
<b>CHANGES IN REVENUES</b>												
Estimated Revenues	-3	-6	-6	-6	-6	-6	-7	-7	-7	-7	-27	-61

Note: CBO estimates that implementing H.R. 5018 would cost about \$2 million over the 2015-2019 period, subject to appropriation of the necessary amounts.

## **BASIS OF ESTIMATE**

For this estimate, CBO assumes that the bill will be enacted by the end of calendar year 2014.

### **Revenues**

The bill would directly affect revenues through the operations of the Federal Reserve System, which remits its net earnings to the Treasury; those remittances are classified as revenues in the federal budget. Based on information provided by both the Board of Governors of the Federal Reserve System and GAO, CBO estimates that the provisions of the bill would increase the costs of the Federal Reserve and thus reduce its remittances by \$27 million over the 2015-2019 period, and by \$61 million over the 2015-2024 period. CBO has not analyzed the possible effects of the legislation on the conduct of monetary policy or the implications of potential changes in monetary policy for the federal budget.

The provisions with significant effects on remittances would:

- Require the Federal Reserve, before issuing many new regulations, to undertake a cost-benefit analysis that would take into account factors such as the effects on economic growth, availability of credit, safety and soundness of the banking system, and small businesses. For regulations it issues in which the effect on the economy exceeds a certain threshold, the Federal Reserve would be required to undertake a post-adoption assessment of the actual effects.
- Make the employees and members of the Board of Governors subject to additional ethics standards and financial disclosure rules. The ethics standards would follow those that apply to employees of the Securities and Exchange Commission.

- Require the Federal Open Market Committee to develop a monetary policy rule that specifies an interest rate target and how that target rate would be adjusted for changes in certain economic variables. The rule would be provided to both GAO, which would assess any changes to the rule for compliance with the requirements of the bill, and to the Congress.

The largest component of the estimated effects on remittances would result from the Federal Reserve's need to hire new staff to issue and assess regulations, which CBO estimates would reduce remittances by \$27 million over the 2015-2024 period. Over the same 2015-2024 period, the ethics and disclosure provisions of the bill would require the Federal Reserve to hire new staff to honor the new rules and would reduce remittances by an estimated \$21 million. The provisions regarding the monetary policy rule would also require the Federal Reserve to hire additional staff, which would raise costs and reduce remittances by \$13 million over the 2015-2024 period, CBO estimates.

CBO estimates that there would be insignificant revenue effects from other provisions of the bill affecting the Federal Reserve, including requiring the central bank to issue regulations related to the stress testing of bank holding companies and nonbank financial companies, providing for quarterly instead of semi-annual testimonies to the Congress on the economy and monetary policy, and requiring notice about impending international negotiations or agreements on financial regulatory matters.

### **Spending Subject to Appropriation**

H.R. 5018 would require GAO to prepare a compliance report on any changes in the monetary policy rule initiated by the Federal Open Market Committee. CBO expects that implementing the provision would cost less than \$500,000 annually and about \$2 million over the 2015-2019 period, assuming the availability of appropriated funds.

### **PAY-AS-YOU-GO CONSIDERATIONS**

The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in the following table.

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**CBO Estimate of Pay-As-You-Go Effects for H.R. 5018, as ordered reported by the House Committee on Financial Services on July 30, 2014**

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	By Fiscal Year, in Millions of Dollars											2014-	2014-
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2019	2024
<b>NET INCREASE IN THE DEFICIT</b>													
Statutory Pay-As-You-Go Effects	0	3	6	6	6	6	6	7	7	7	7	27	61

---

**INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT**

H.R. 5018 contains no intergovernmental or private-sector mandates as defined in UMRA, and would impose no costs on state, local, or tribal governments.

**ESTIMATE PREPARED BY:**

Federal Revenue: Nathaniel Frenz  
 Federal Costs: Matthew Pickford  
 Impact on State, Local, and Tribal Governments: J'nell Blanco  
 Impact on the Private Sector: Paige Piper/Bach

**ESTIMATE APPROVED BY:**

David Weiner  
 Assistant Director for Tax Analysis

Theresa Gullo  
 Deputy Assistant Director for Budget Analysis

# **FORMAL REGULATORY OVERSIGHT FILING**

## **Public Comment and Administrative Challenge**

### **Re: Federal Reserve Board Modified System of Records**

**BGFRS-14 — "FRB—General File of Federal Reserve Bank and Branch Directors"**

**Published at 91 FR 12802 (Tuesday, March 17, 2026)**

**Comments Due: April 16, 2026**

And Associated Matters:

Information Collection OMB Control No. 7100-0328

Delegation of Authority under 12 CFR § 265.2

Cross-Cutting Compliance Gaps — 12 CFR Title 12 (Federal Reserve & OCC Frameworks)

### **Agency:**

Board of Governors of the Federal Reserve System

20th Street and Constitution Avenue NW, Washington, DC 20551

### **Submitted by:**

**James Hunter Poole**

Executive Chairman & Chief Executive Officer

**Obelisk Tech Systems Inc.**

Thomasville, Thomas County, Georgia

CAGE 9S0L8 | UEI U34MSJ6A6413 | HUBZone-certified | ITAR-registered

Date of Submission: April 11, 2026

Dockets: BGFRS-14 SORN; FR-2026-0004-01; OMB 7100-0328

## **Section 2 — Executive Summary**

Obelisk Tech Systems Inc. ("Obelisk") submits this filing in response to the Federal Reserve Board's ("Board") proposed modification of system of records BGFRS-14, published at 91 FR 12802 (Mar. 17, 2026). Obelisk does not oppose the Board's underlying statutory duty to maintain records relating to Reserve Bank and Branch director eligibility, conduct, and service. Obelisk does, however, formally challenge the scope, methodology, internal-control posture, and transparency of the proposed modification, and places on the administrative record a parallel challenge to associated information collections, delegation authority, and cross-cutting compliance gaps under Title 12 of the Code of Federal Regulations.

### **Core challenge.**

The proposed modification simultaneously (a) expands ingestion of personally identifiable information to non-employee candidates and their staff assistants, (b) authorizes third-party database sourcing without source-authentication controls, (c) permits demographic data collection, and (d) invokes the Privacy Act § (k)(5) exemption to deny access, accounting, and accuracy rights — while publishing no Privacy Impact Assessment, no OMB A-123 internal-control matrix, and no cumulative Paperwork Reduction Act burden reconciliation. This combination produces an asymmetry between regulated private actors (who face extensive qualification, registry, and audit-trail obligations) and federal delegation authority under 12 CFR § 265.2 (which operates without comparable transparency).

### **Legal effect of this filing.**

This submission is structured to trigger binding agency obligations under the Administrative Procedure Act (5 U.S.C. §§ 553, 706), the Paperwork Reduction Act (44 U.S.C. §§ 3506–3507), the Privacy Act of 1974 (5 U.S.C. § 552a), OMB Circular A-108, OMB Circular A-123 (2026 revision), and the Federal Records Act. It creates an administrative record supporting subsequent Government Accountability Office audit, Office of Inspector General inspection, and judicial review.

## **Section 3 — Legal Authority Stack**

The following layered authorities establish the Board's obligation to respond, to produce documentation, and to coordinate with oversight entities.

### **3.1 Administrative Procedure Act — 5 U.S.C. §§ 553, 706**

Section 553 requires notice-and-comment procedures for rules of agency practice and substantive effect. A SORN modification that collaterally narrows Part 261a access procedures and expands categories of covered individuals functions as substantive rulemaking and must be supported by a reasoned explanation. Section 706 requires reviewing courts to set aside agency action found arbitrary, capricious, or not in accordance with law. Failure to respond substantively to material comments is itself reversible error.

### **3.2 Privacy Act of 1974 — 5 U.S.C. § 552a**

Subsections (e)(1), (e)(4), (e)(10), (e)(11), (o), (p), (r), and (u) impose affirmative duties respecting relevance, publication, safeguards, matching agreements, Data Integrity Board oversight, and reports to OMB and Congress. Subsection (k)(5) authorizes exemption only for material compiled solely for suitability, eligibility, or access determinations, and only to the extent disclosure would reveal a confidential source.

### **3.3 Paperwork Reduction Act — 44 U.S.C. ch. 35**

Sections 3506 and 3507 require agencies, prior to conducting or sponsoring an information collection, to (a) demonstrate practical utility, (b) evaluate burden, (c) consult with affected parties, and (d) obtain OMB clearance. Associated collection OMB 7100-0328 must be reconciled against BGFRS-14's expanded ingestion; duplication across collections and systems is a PRA violation.

### **3.4 OMB Circular A-108 — Federal Agency Responsibilities for Privacy Act SORNs**

A-108 § 6(c) requires SORN modifications to identify all categories of individuals, records, and sources with specificity; § 7 requires Privacy Impact Assessments where E-Government Act § 208 is triggered; § 8 requires narrative justification for routine uses; § 9 requires Data Integrity Board review where matching programs are implicated.

### **3.5 OMB Circular A-123 (2026 Revision) — Management's Responsibility for ERM and Internal Control**

A-123 requires federal managers to identify risks to objectives, design proportionate control activities, and monitor and remediate deficiencies. The 2026 revision expressly requires linkage between identified risks and published control activities in rulemaking records affecting information systems.

### **3.6 Federal Records Act — 44 U.S.C. chs. 29, 31, 33**

The Federal Records Act, in conjunction with NARA General Records Schedules, forbids ad hoc destruction standards such as "may be destroyed when no longer needed." Records schedules must be NARA-approved.

### **3.7 Why the Board Must Respond**

Under the APA, an agency must consider and respond to material comments. Under the PRA, OMB cannot approve a collection that has not addressed substantive public objections. Under A-108, unanswered objections to SORN scope require republication. Under A-123, unresolved control deficiencies must be escalated to entity-level risk review. These obligations are non-discretionary.

## **Section 4 — CFR Title 12 Analysis: Delegation Asymmetry**

### **4.1 12 CFR § 265.2 — Functions Delegated to the Secretary**

Part 265 establishes the Board's internal delegation framework. § 265.2 and the surrounding sections delegate a wide range of supervisory, licensing, personnel, and administrative decisions to Board officers and Reserve Bank officials. The regulation does not, on its face, establish:

- A publicly accessible registry of delegated authorities actually exercised.
- Qualification standards for individuals to whom authority is delegated.
- Audit trails documenting the factual basis for each delegated decision.
- Public transparency mechanisms comparable to those imposed on regulated private actors.

- Cross-references to the Privacy Act system that would capture delegation decisions about identifiable individuals.

## **4.2 Comparison — Mortgage Loan Originator and OMB 7100-0328**

Under the SAFE Act, CFPB Regulation G, and the Nationwide Multistate Licensing System, mortgage loan originators are subject to federal registration, unique identifier assignment, qualification testing, continuing education, public-record disclosure, and audit. The Board's information collection OMB 7100-0328 imposes analogous reporting burdens on regulated depository personnel.

By contrast, persons exercising delegated federal authority under 12 CFR § 265.2 — whose decisions can materially affect supervised institutions, director eligibility, and personal reputations — face no comparable registration, qualification, or public-audit regime.

## **4.3 Framing: Regulatory Asymmetry**

This filing characterizes the resulting condition as a regulatory asymmetry between controlled private actors and uncontrolled federal delegation authority. The asymmetry is not merely rhetorical; it is a measurable internal-control gap under A-123 and a cognizable APA reasoned-decisionmaking defect when the Board expands an SORN that feeds delegated decisions without disclosing the delegation framework itself.

# **Section 5 — Privacy Act / Circular A-108 Failure Analysis**

## **5.1 System of Records Scope**

The proposed BGFRS-14 modification expands covered individuals to include candidates for director positions and their assistants. A-108 § 6(c) requires specificity. The term "news and other information databases" is not a source category; it is a sourcing modality and fails A-108.

## **5.2 Routine Uses**

The notice narrows the system-specific routine use while relying on general routine uses A, C, D, G, I, and J. The narrative does not explain, as A-108 § 8 requires, why each retained general routine use is compatible with the purpose of collection as applied to non-employee candidates.

## **5.3 Reporting Obligations**

Under Privacy Act § (r) and OMB implementing guidance, significant SORN modifications require advance report to OMB and to the congressional committees of jurisdiction. The notice does not document whether that report was submitted, its contents, or OMB's response.

## **5.4 Data Integrity Board Oversight**

Under § (u), each agency maintaining a system of records subject to a matching program must establish a Data Integrity Board. The notice does not disclose whether BGFRS-14 records are used in any matching program, nor whether the Board's Data Integrity Board has reviewed the proposed modification.

## **5.5 Forced Questions**

- What matching programs, if any, draw on or feed BGFRS-14?
- What interagency data-sharing agreements touch BGFRS-14 records?

- Where are the § (r) reports to OMB and Congress concerning this modification?
- What Data Integrity Board minutes or findings exist concerning BGFRS-14?
- What PIA, if any, was prepared under E-Government Act § 208?

## **Section 6 — Paperwork Reduction Act Challenge to OMB 7100-0328 and Associated Collections**

### **6.1 Burden Estimation Validity**

PRA § 3506(c)(1)(A)(iv) requires agencies to provide a specific, objectively supported estimate of burden. Expansion of BGFRS-14 to ingest candidate and assistant data from third-party databases necessarily increases the downstream burden on Reserve Bank staff who must authenticate, reconcile, and maintain those records. No revised burden estimate is disclosed.

### **6.2 Cross-System Duplication**

PRA § 3506(c)(3)(B) requires agencies to avoid unnecessary duplication. To the extent BGFRS-14 duplicates information already collected under OMB 7100-0328 or other Board collections, that duplication must be documented and justified.

### **6.3 Cumulative Burden Accounting**

PRA § 3507 requires OMB review before approval. Cumulative burden across BGFRS-14, OMB 7100-0328, and any related collections must be aggregated; the public record does not reflect such aggregation.

### **6.4 Relief Sought under the PRA**

- OMB reopening of 7100-0328 clearance in light of the BGFRS-14 expansion.
- Publication of a cumulative burden statement reconciling all collections touching director records.
- Written justification under 44 U.S.C. §§ 3506–3507 addressing practical utility, duplication, and burden.

## **Section 7 — Interagency Obligation Map**

The matters raised in this filing cannot remain internal to the Board. Mandatory interagency obligations flow as follows:

### **7.1 Federal Reserve Board → Office of Management and Budget**

Under Privacy Act § (r), PRA §§ 3506–3507, and A-108, the Board must coordinate with OMB on SORN modifications, information collections, and PIAs. OMB's role is non-discretionary review.

### **7.2 OMB → Government Accountability Office**

GAO exercises audit authority under 31 U.S.C. § 712 and 31 U.S.C. § 717 over agency compliance with information-management statutes. A-123 (2026) explicitly contemplates GAO access to internal-control documentation.

### **7.3 Board → Board Office of Inspector General**

Under the Inspector General Act of 1978, as amended, the Board OIG has jurisdiction to inspect and investigate management and operational deficiencies, including SORN compliance and internal-control posture.

#### **7.4 Interagency Coordination — CIGIE**

The Council of the Inspectors General on Integrity and Efficiency coordinates cross-agency inspection standards under the Blue Book and the Silver Book. Coordination is required where systemic deficiencies implicate multiple federal systems of records.

### **Section 8 — Audit Cascade**

This filing is structured to create an audit-triggering condition across multiple oversight bodies. The cascade operates as follows:

1. PRA trigger — OMB review of associated information collections, including OMB 7100-0328, under 44 U.S.C. §§ 3506–3507.
2. A-123 trigger — internal-control audit by the Board's management and, where escalation is warranted, by the Board OIG.
3. Privacy Act trigger — SORN compliance review under § 552a and A-108, including § (r) report reconciliation and Data Integrity Board review.
4. GAO trigger — audit authority under 31 U.S.C. §§ 712, 717, and GAGAS (Yellow Book, 2024 revision).
5. OIG trigger — inspection or investigation pathway under the Inspector General Act and CIGIE Blue/Silver Book standards.

This filing creates an audit-triggering condition across oversight bodies. The record established herein is available for citation in any subsequent audit, inspection, investigation, or judicial proceeding.

### **Section 9 — Formal Questions Requiring Mandatory Response**

The following questions are submitted pursuant to the APA, the Privacy Act, the PRA, and associated OMB Circulars. Each demands documentation and a written response on the administrative record.

6. Does a publicly accessible registry of delegated authorities exercised under 12 CFR § 265.2 exist? If so, produce it. If not, explain the legal basis for its absence.
7. What qualification standards govern individuals to whom authority is delegated under 12 CFR §§ 265.2–265.20, and where are they published?
8. Produce the OMB A-123 (2026) internal-control documentation specific to BGFRS-14, including the entity-level risk assessment, control activity matrix, and monitoring plan.
9. Identify all interagency data-sharing agreements and computer-matching agreements that touch BGFRS-14, and produce the underlying agreements and Data Integrity Board minutes.
10. Identify all matching programs, as defined in 5 U.S.C. § 552a(a)(8), that draw on or feed BGFRS-14.

11. Produce the § (r) report to OMB and to the congressional committees of jurisdiction concerning the proposed BGFRS-14 modification, together with any OMB response.
12. Produce the Privacy Impact Assessment prepared under E-Government Act § 208 for the BGFRS-14 modification, or explain the legal basis for its absence.
13. Produce the cumulative Paperwork Reduction Act burden statement reconciling BGFRS-14 with OMB 7100-0328 and all other Board collections touching director records.
14. Produce all Board OIG consultations, findings, or recommendations concerning BGFRS-14 in the preceding 36 months.
15. Identify the NARA-approved retention schedule governing candidate and candidate-assistant records, and produce the NARA disposition authority number.
16. Produce all internal memoranda supporting the expansion of covered individuals to include non-employee candidates and their assistants.
17. Identify the authentication, hashing, versioning, and chain-of-custody controls governing ingestion from "news and other information databases" into BGFRS-14.

## **Section 10 — Required Actions**

- Produce all documentation identified in Section 9 within the comment reply window or state, for each item, a specific legal basis for withholding.
- Submit or resubmit BGFRS-14 and OMB 7100-0328 for OMB review with cumulative burden accounting.
- Publish the A-123 internal-control matrix specific to BGFRS-14.
- Publish the Section 208 Privacy Impact Assessment.
- Disclose all interagency coordination records, matching agreements, and Data Integrity Board minutes.
- Narrow the § (k)(5) exemption to records actually compiled solely for suitability determinations, and segregate mixed-use records.
- Adopt a NARA-approved retention schedule for candidate and candidate-assistant records.
- Conduct a cross-cutting internal-control review of 12 CFR Parts 261, 261a, 261b, 262, 263, 264, 264a, 264b, 265, 266, and 268 for parallel deficiencies.
- Commit to a CIGIE Blue Book-compliant Board OIG inspection within 12 months of the effective date of any final modification.

## **Section 11 — Conclusion and Reservation of Rights**

This filing is not a generic public comment. It is a structured federal oversight filing designed to invoke the Administrative Procedure Act, the Privacy Act, the Paperwork Reduction Act, OMB Circulars A-108 and A-123, the Federal Records Act, and the Inspector General Act, and to create an administrative record available for Government Accountability Office audit, Office of Inspector General inspection, congressional oversight, and judicial review.

The Board's obligation to respond substantively is non-discretionary. Failure to respond, or response that fails to address the specific questions and documentation requests set forth in

Sections 9 and 10, will constitute a reviewable agency action under 5 U.S.C. § 706 and will be cited as such in subsequent proceedings.

Obelisk reserves all rights under the Administrative Procedure Act, the Privacy Act, the E-Government Act, the Paperwork Reduction Act, the Information Quality Act, the Federal Records Act, and applicable judicial review provisions, and incorporates by reference its prior-filed federal regulatory comments maintained in the Obelisk master citation bank.

*Respectfully submitted,*

**James Hunter Poole**

Executive Chairman & Chief Executive Officer

Obelisk Tech Systems Inc.

Thomasville, Thomas County, Georgia

CAGE 9S0L8 | UEI U34MSJ6A6413

Date: April 11, 2026