

of the department or agency head additional conditions are necessary for the protection of human subjects.

PART 47—RIGHT TO FINANCIAL PRIVACY ACT

Sec.

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AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510; section 1108 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3408.

SOURCE: Order No. 822-79, 44 FR 14554, Mar. 13, 1979, unless otherwise noted.

§ 47.1 Definitions.

The terms used in this part shall have the same meaning as similar terms used in the Right to Financial Privacy Act of 1978. *Departmental unit* means any office, division, board, bureau, or other component of the Department of Justice which is authorized to conduct law enforcement inquiries. *Act* means the Right to Financial Privacy Act of 1978.

§ 47.2 Purpose.

The purpose of these regulations is to authorize Departmental units to request financial records from a financial institution pursuant to the formal written request procedure authorized by section 1108 of the Act, and to set forth the conditions under which such requests may be made.

§ 47.3 Authorization.

Departmental units are authorized to request financial records of any customer from a financial institution pursuant to a formal written request under the Act only if:

- (a) No administrative summons or subpoena authority reasonably appears to be available to the Departmental unit to obtain financial records for the purpose for which the records are sought;
- (b) There is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry and will further that inquiry;
- (c) The request is issued by a supervisory official of a rank designated by

the head of the requesting Departmental unit. The officials so designated shall not delegate this authority to others;

(d) The request adheres to the requirements set forth in § 47.4; and

(e) The notice requirements set forth in section 1108(4) of the Act, or the requirements pertaining to delay of notice in section 1109 of the Act, are satisfied, except in situations (e.g., section 1113(g)) where no notice is required.

§ 47.4 Written request.

(a) The formal written request shall be in the form of a letter or memorandum to an appropriate official of the financial institution from which financial records are requested. The request shall be signed by the issuing official, and shall set forth that official's name, title, business address and business phone number. The request shall also contain the following:

- (1) The identity of the customer or customers to whom the records pertain;
- (2) A reasonable description of the records sought; and
- (3) Such additional information as may be appropriate—e.g., the date on which the opportunity for the customer to challenge the formal written request will expire, the date on which the requesting Departmental unit expects to present a certificate of compliance with the applicable provisions of the Act, the name and title of the individual (if known) to whom disclosure is to be made.

(b) In cases where customer notice is delayed by court order, a copy of the court order shall be attached to the formal written request.

§ 47.5 Certification.

Prior to obtaining the requested records pursuant to a formal written request, an official of a rank designated by the head of the requesting Departmental unit shall certify in writing to the financial institution that the Departmental unit has complied with the applicable provisions of the Act.