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PART 261b—RULES REGARDING PUBLIC OBSERVATION OF MEETINGS

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SOURCE: 42 FR 13297, Mar. 10, 1977, unless otherwise noted.

§ 261b.1 Basis and scope.

This part is issued by the Board of Governors of the Federal Reserve System (''the Board'') under section 552b of title 5 of the United States Code, the Government in the Sunshine Act (''the Act''), to carry out the policy of the Act that the public is entitled to the fullest practicable information regarding the decision making processes of the Board while at the same time preserving the rights of individuals and the ability of the Board to carry out its responsibilities. These regulations fulfill the requirement of subsection (g) of the Act that each agency subject to the provisions of the Act shall promulgate regulations to implement the open meeting requirements of subsections (b) through (f) of the Act.

§ 261b.2 Definitions.

For purposes of this part, the following definitions shall apply:

(a) The term *agency* means the Board and subdivisions thereof.

(b) The term *subdivision* means any group composed of two or more Board members that is authorized to act on behalf of the Board.

(c) The term *meeting* means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official Board business, but does not include (1) deliberations required or permitted by subsections (d) or (e) of the Act, or (2) the conduct or disposition of official agency business by circulating written material to individual members.

(d) The term *number of individual agency members required to take action on behalf of the agency* means in the case of the Board, a majority of its members except that (1) Board determination of the ratio of reserves against deposits under section 19(b) of the Federal Reserve Act requires the vote of four members, (2) Board action with respect to advances, discounts and rediscounts under sections 10(a), 11(b), and 13(3) of the Federal Reserve Act requires the vote of five members and (3) Board action with respect to the percentage of individual member bank capital and surplus which may be represented by loans secured by stock and bond collateral under section 11(m) of the Federal Reserve Act requires the vote of six members. In the case of subdivisions of the Board, the term means the number of members constituting a quorum of the designated subdivision.

(e) The term *member* means a member of the Board appointed under section 10 of the Federal Reserve Act. In the case of certain Board proceedings pursuant to 12 U.S.C. 1818(e), the Comptroller of the Currency is entitled to sit as a member of the Board and for these proceedings he shall be deemed a *member* for the purposes of this part. In the case of any subdivision of the Board, the term *member* means a member of the Board designated to serve on that subdivision.

(f) The term *public observation* means that the public shall have the right to listen and observe but not to record any of the meetings by means of cameras or electronic or other recording devices unless approval in advance is obtained from the Public Affairs Office of the Board and shall not have the right to participate in the meeting, unless participation is provided for in the Board's Rules of Procedure.

(g) The term *Federal agency* means an *agency* as defined in 5 U.S.C. 551(1).

(h) *Committee* means the Action Committee established pursuant to 12 CFR 265.1a(c).

[42 FR 13297, Mar. 10, 1977, as amended at 43 FR 34481, Aug. 4, 1978]

§ 261b.3 Conduct of agency business.

Members shall not jointly conduct or dispose of official agency business other than in accordance with this part.

§ 261b.4 Meetings open to public observation.

(a) Except as provided in § 261b.5, every portion of every meeting of the agency shall be open to public observation.

(b) Copies of staff documents considered in connection with agency discussion of agenda items for a meeting that is open to public observation shall be made available for distribution to members of the public attending the meeting, in accordance with the provisions of 12 CFR part 261.

(c) The agency will maintain a complete electronic recording adequate to record fully the proceedings of each meeting or portion of a meeting open to public observation. Cassettes will be available for listening in the Freedom of Information Office, and copies may be ordered for $5 per cassette by telephoning or by writing Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

(d) The agency will maintain mailing lists of names and addresses of all persons who wish to receive copies of agency announcements of meetings open to public observation. Requests for announcements may be made by telephoning or by writing Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

[44 FR 11750, Mar. 2, 1979]

§ 261b.5 Exemptions.

(a) Except in a case where the agency finds that the public interest requires otherwise, the agency may close a meeting or a portion or portions of a meeting under the procedures specified in § 261b.7 or § 261b.8 of this part, and withhold information under the provisions of §§ 261b.6, 261b.7, 261b.8, or 261b.11 of this part, where the agency properly determines that such meeting or portion or portions of its meeting or the disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy, and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to internal personnel rules and practices;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5 of the United States Code), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would—

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by a Federal agency conducting a lawful national security intelligence investigation,

confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Board or other Federal agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would—

(i) Be likely to (A) lead to significant speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) Be likely to significantly frustrate implementation of a proposed action, except that paragraph (a)(9)(ii) of this section shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the issuance of a subpoena, participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition of a particular case of formal agency adjudication pursuant to the procedures in section 554 of title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing.

§ 261b.6 Public announcement of meetings.

(a) Except as otherwise provided by the Act, public announcement of meetings open to public observation and meetings to be partially or completely closed to public observation pursuant to § 261b.8 of this part will be made at least one week in advance of the meeting. Except to the extent such information is determined to be exempt from disclosure under § 261b.5 of this part, each such public announcement will state the time, place and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated to respond to requests for information about the meeting.

(b) If a majority of the members of the agency determines by a recorded vote that agency business requires that a meeting covered by paragraph (a) of this section be called at a date earlier than that specified in paragraph (a) of this section, the agency will make a public announcement of the information specified in paragraph (a) of this section at the earliest practicable time.

(c) Changes in the subject matter of a publicly announced meeting, or in the determination to open or close a publicly announced meeting or any portion of a publicly announced meeting to public observation, or in the time or place of a publicly announced meeting made in accordance with the procedures specified in § 261b.9 of this part will be publicly announced at the earliest practicable time.

(d) Public announcements required by this section will be posted at the Board's Public Affairs Office and Freedom of Information Office and may be made available by other means or at other locations as may be desirable.

(e) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding announcements and the name and telephone number of the official designated by the Board to respond to requests about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

§ 261b.7 Meetings closed to public observation under expedited procedures.

(a) Since the Board and the Committee qualifies for the use of expedited procedures under subsection (d)(4) of the Act, meetings or portions thereof exempt under paragraph (a)(4), (a)(8), (a)(9)(i) or (a)(10) of § 261b.5 of this part, will be closed to public observation under the expedited procedures of this section. Following are examples of types of items that, absent compelling contrary circumstances, will qualify for these exemptions: Matters relating

to a specific bank or bank holding company, such as bank branches or mergers, bank holding company formations, or acquisition of an additional bank or acquisition or de novo undertaking of a permissible nonbanking activity; bank regulatory matters, such as applications for membership, issuance of capital notes and investment in bank premises; foreign banking matters; bank supervisory and enforcement matters, such as cease-and-desist and officer removal proceedings; monetary policy matters, such as discount rates, use of the discount window, changes in the limitations on payment of interest on time and savings accounts, and changes in reserve requirements or margin regulations.

(b) At the beginning of each meeting, a portion or portions of which is closed to public observation under expedited procedures pursuant to this section, a recorded vote of the members present will be taken to determine whether a majority of the members of the agency votes to close such meeting of portions of such meeting to public observation.

(c) A copy of the vote, reflecting the vote of each member, and except to the extent such information is determined to be exempt from disclosure under §261b.5, a public announcement of the time, place and subject matter of the meeting or each closed portion thereof, will be made available at the earliest practicable time at the Board's Public Affairs Office and Freedom of Information Office.

[42 FR 13297, Mar. 10, 1977, as amended at 43 FR 34481, Aug. 4, 1978]

§ 261b.8 Meetings closed to public observation under regular procedures.

(a) A meeting or a portion of a meeting will be closed to public observation under regular procedures, or information as to such meeting or portion of a meeting will be withheld only by recorded vote of a majority of the members of the agency when it is determined that the meeting or the portion of the meeting or the withholding of information qualifies for exemption under §261b.5. Votes by proxy are not allowed.

(b) Except as provided in subsection (c) of this section, a separate vote of the members of the agency will be taken with respect to the closing or the withholding of information as to each meeting or portion thereof which is proposed to be closed to public observation or with respect to which information is proposed to be withheld pursuant to this section.

(c) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to public observation or with respect to any information concerning such series of meetings proposed to be withheld, so long as each meeting or portion thereof in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series.

(d) Whenever any person's interests may be directly affected by a portion of a meeting for any of the reasons referred to in exemption (a)(5), (a)(6) or (a)(7) of §261b.5 of this part, such person may request in writing to the Secretary of the Board that such portion of the meeting be closed to public observation. The Secretary, or in his or her absence, the Acting Secretary of the Board, will transmit the request to the members and upon the request of any one of them a recorded vote will be taken whether to close such meeting to public observation.

(e) Within one day of any vote taken pursuant to paragraphs (a) through (d) of this section, the agency will make publicly available at the Board's Public Affairs Office and Freedom of Information Office a written copy of such vote reflecting the vote of each member on the question. If a meeting or a portion of a meeting is to be closed to public observation, the agency, within one day of the vote taken pursuant to paragraphs (a) through (d) of this section, will make publicly available at the Board's Public Affairs Office and Freedom of Information Office a full, written explanation of its action closing the meeting or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation, except to the extent such information is determined by the agency to be exempt from disclosure under subsection (c) of the Act and §261b.5 of this part.

(f) Any person may request in writing to the Secretary of the Board that an announced closed meeting, or portion of the meeting, be held open to public observation. The Secretary, or in his or her absence, the Acting Secretary of the Board, will transmit the request to the members of the Board and upon the request of any member a recorded vote will be taken whether to open such meeting to public observation.

[42 FR 13297, Mar. 10, 1977, as amended at 44 FR 11750, Mar. 2, 1979]

§261b.9 Changes with respect to publicly announced meeting.

The subject matter of a meeting or the determination to open or close a meeting or a portion of a meeting to public observation may be changed following public announcement under §261b.6 only if a majority of the members of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible. Public announcement of such change and the vote of each member upon such change will be made pursuant to §261b.6(c). Changes in time, including postponements and cancellations of a publicly announced meeting or portion of a meeting or changes in the place of a publicly announced meeting will be publicly announced pursuant to §261b.6(c) by the Secretary of the Board or, in the Secretary's absence, the Acting Secretary of the Board.

§261b.10 Certification of General Counsel.

Before every meeting or portion of a meeting closed to public observation under §261b.7 or 261b.8 of this part, the General Counsel, or in the General Counsel's absence, the Acting General Counsel, shall publicly certify whether or not in his or her opinion the meeting may be closed to public observation and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, will be retained for the time prescribed in §261b.11(d).

§261b.11 Transcripts, recordings, and minutes.

(a) The agency will maintain a complete transcript or electronic recording or transcription thereof adequate to record fully the proceedings of each meeting or portion of a meeting closed to public observation pursuant to exemption (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7) or (a)(9)(ii) of §261b.5 of this part. Transcriptions of recordings will disclose the identity of each speaker.

(b) The agency will maintain either such a transcript, recording or transcription thereof, or a set of minutes that will fully and clearly describe all matters discussed and provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question), for meetings or portions of meetings closed to public observation pursuant to exemptions (a)(8), (a)(9)(A) or (a)(10) of §261b.5 of this part. The minutes will identify all documents considered in connection with any action taken.

(c) Transcripts, recordings or transcriptions thereof, or minutes will promptly be made available to the public in the Freedom of Information Office except for such item or items of such discussion or testimony as may be determined to contain information that may be withheld under subsection (c) of the Act and §261b.5 of this part.

(d) A complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording or verbatim copy of a transcription thereof of each meeting or portion of a meeting closed to public observation will be maintained for a period of at least two years or one year after the conclusion of any agency proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

§261b.12 Procedures for inspection and obtaining copies of transcriptions and minutes.

(a) Any person may inspect or copy a transcript, a recording or transcription of a recording, or minutes described in §261b.11(c) of this part.

(b) Requests for copies of transcripts, recordings or transcriptions of recordings, or minutes described in §261b.11(c) of this part shall specify the meeting or the portion of meeting desired and shall be submitted in writing to the Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551. Copies of documents identified in minutes may be made available to the public upon request under the provisions of 12 CFR part 261 (Rules Regarding Availability of Information).

§261b.13 Fees.

(a) Copies of transcripts, recordings or transcriptions of recordings, or minutes requested pursuant to section §261b.12(b) of this part will be provided at the cost of 10¢ per standard page for photocopying or at a cost not to exceed the actual cost of printing, typing, or otherwise preparing such copies.

(b) Documents may be furnished without charge where total charges are less than $2.

PART 262—RULES OF PROCEDURE

Sec.

262.1 Basis and scope.
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262.3 Applications.
262.4 Adjudication with formal hearing.
262.5 Appearance and practice.
262.6 Forms.
262.7–262.24 [Reserved]
262.25 Policy statement regarding notice of applications; timeliness of comments; informal meetings.

AUTHORITY: 5 U.S.C. 552, 12 U.S.C. 321, 1828(c), and 1842.

SOURCE: 38 FR 6807, Mar. 13, 1973, unless otherwise noted.

§262.1 Basis and scope.

This part is issued pursuant to section 552 of title 5 of the United States Code, which requires that every agency shall publish in the FEDERAL REGISTER statements of the general course and method by which its functions are channeled and determined, rules of procedure, and descriptions of forms available or the places at which forms may be obtained.

§262.2 Procedure for regulations.

(a) *Notice.* Notices of proposed regulations of the Board of Governors of the Federal Reserve System (the ''Board'') or amendments thereto are published in the FEDERAL REGISTER, except as specified in paragraph (e) of this section or otherwise excepted by law. Such notices include a statement of the terms of the proposed regulations or amendments and a description of the subjects and issues involved; but the giving of such notices does not necessarily indicate the Board's final approval of any feature of any such proposal. The notices also include a reference to the authority for the proposed regulations or amendments and a statement of the time, place, and nature of public participation.

(b) *Public participation.* The usual method of public submission of data, views, or arguments is in writing. It is ordinarily preferable that they be sent to the Secretary of the Board, Washington, DC 20551, with copies to the appropriate Federal Reserve Bank. The locations of the 12 Federal Reserve Banks and the boundaries of the Federal Reserve districts are shown in the appendix to the Board's rules of organization. Such material will be made available for inspection and copying upon request, except as provided in §261.6(b) of this chapter regarding availability of information.

(c) *Preparation of draft and action by Board.* In the light of consideration of all relevant matter presented or ascertained, the appropriate division of the Board's staff, in collaboration with other divisions, prepares drafts of proposed regulations or amendments, and the staff submits them to the Board. The Board takes such action as it deems appropriate in the public interest. Any other documents that may be necessary to carry out any decision by the Board in the matter are usually prepared by the Legal Division, in collaboration with the other divisions of the staff.

(d) *Effective dates.* Any substantive regulation or amendment thereto issued by the Board is published not less than 30 days prior to the effective date thereof, except as specified in paragraph (e) of this section or as otherwise excepted by law.