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other nonfinancial institution supervisory agencies may file written requests with the Board for access to confidential documents and information under this section of the regulation. Properly accredited foreign law enforcement agencies and other foreign government agencies may also file written requests with the Board.

(c) *Contents of request.* To obtain access to confidential documents or information under this section of the regulation, the head of the law enforcement agency or nonfinancial institution supervisory agency (or their designees) shall address a letter request to the Board's General Counsel, specifying:

(1) The particular information, kinds of information, and where possible, the particular documents to which access is sought;

(2) The reasons why such information cannot be obtained from the examined institution in question rather than from the Board;

(3) A statement of the law enforcement purpose or other purpose for which the information shall be used;

(4) Whether the requested disclosure is permitted or restricted in any way by applicable law or regulation;

(5) A commitment that the information requested shall not be disclosed to any person outside the agency without the written permission of the Board or its General Counsel; and

(6) If the document or information requested includes customer account information subject to the Right to Financial Privacy Act, as amended (12 U.S.C. 3401 *et seq.*), a statement that such customer account information need not be provided, or a statement as to why the Act does not apply to the request, or a certification that the requesting agency has complied with the requirements of the Act.

(d) *Action on request.* (1) The General Counsel shall review each request and may approve the request upon determining that:

(i) The request complies with this section;

(ii) The information is needed in connection with a formal investigation or other official duties of the requesting agency;

(iii) Satisfactory assurances of confidentiality have been given; and

(iv) No law prohibits the requested disclosure.

(2) The General Counsel may impose any conditions or limitations on disclosure that the General Counsel determines to be necessary to effect the purposes of this regulation or to insure compliance with applicable laws or regulations.

(e) *Federal and state grand jury, criminal trial, and government administrative subpoenas.* The Board's General Counsel shall review and may approve the disclosure of confidential information pursuant to Federal and state grand jury, criminal trial, and government administrative subpoenas. The General Counsel may impose such conditions or limitations on disclosure under this section that the General Counsel determines are necessary to effect the purposes of this regulation, to insure compliance with applicable laws or regulations, or to protect the confidentiality of the Board's information.

(f) *Requests for testimony or interviews.* Government agencies seeking to obtain testimony or interviews from current and former Federal Reserve System staff concerning any confidential information of the Board shall use the procedures set out in paragraph (c) of this section.

(g) *Other disclosure prohibited.* All reports and information made available under this section remain the property of the Board, and except as otherwise provided in this regulation, no person, agency, or authority to whom the information is made available, or any officer, director, or employee thereof, may disclose any such information except in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the affairs of any individual or corporation.

[53 FR 20815, June 7, 1988. Redesignated at 62 FR 54359, Oct. 20, 1997]

§ 261.22 Other disclosure of confidential supervisory information.

(a) *Board policy.* It is the Board's policy regarding confidential supervisory information that such information is

confidential and privileged. Accordingly, the Board will not normally disclose this information to the public. The Board, when considering a request for disclosure of confidential supervisory information under this section, will not authorize disclosure unless the person requesting disclosure is able to show a substantial need for such information that outweighs the need to maintain confidentiality.

(b) *Requests for disclosure*—(1) *Requests from litigants for information or testimony*. Any person (except agencies identified in §§ 261.20 and 261.21 of this regulation) seeking access to confidential supervisory information or seeking to obtain the testimony of present or former Board or Reserve Bank employees on matters involving confidential supervisory information of the Board, whether by deposition or otherwise, for use in litigation before a court, board, commission, or agency, shall file a written request with the General Counsel of the Board. The request shall describe:

(i) The particular information, kinds of information, and where possible, the particular documents to which access is sought;

(ii) The judicial or administrative action for which the confidential supervisory information is sought;

(iii) The relationship of the confidential supervisory information to the issues or matters raised by the judicial or administrative action;

(iv) The requesting person's need for the information;

(v) The reason why the requesting person cannot obtain the information sought from any other source; and

(vi) A commitment to obtain a protective order acceptable to the Board from the judicial or administrative tribunal hearing the action preserving the confidentiality of any information that is provided.

(2) *All other requests.* Any other person (except agencies identified in §§ 261.20 and 261.21 of this regulation) seeking access to confidential supervisory information for any other purpose shall file a written request with the General Counsel of the Board. A request under this paragraph (b)(2) shall describe the purpose for which such disclosure is sought.

(c) *Action on request*—(1) *Determination of approval.* The General Counsel of the Board may approve a request made under this section provided that he or she determines that:

(i) The person making the request has shown a substantial need for confidential supervisory information that outweighs the need to maintain confidentiality; and

(ii) Disclosure is consistent with the supervisory and regulatory responsibilities and policies of the Board.

(2) *Conditions or limitations.* The General Counsel of the Board may, in approving a request, impose such conditions or limitations on use of any information disclosed as is deemed necessary to protect the confidentiality of the Board's information.

(d) *Exhaustion of administrative remedies for discovery purposes in civil, criminal, or administrative action.* Action on a request under this section by the General Counsel of the Board shall exhaust administrative remedies for discovery purposes in any civil, criminal, or administrative proceeding. A request made pursuant to § 261.12 of this regulation does not exhaust administrative remedies for discovery purposes. Therefore, it is not necessary to file a request pursuant to § 261.12 to exhaust administrative remedies under this section.

(e) *Other disclosure prohibited.* All confidential supervisory information made available under this section shall remain the property of the Board. Any person in possession of such information shall not use or disclose such information for any purpose other than that authorized by the General Counsel of the Board without his or her prior written approval.

[53 FR 20815, June 7, 1988. Redesignated at 62 FR 54359, Oct. 20, 1997; corrected at 62 FR 62508, Nov. 24, 1997]

§ 261.23 Subpoenas, orders compelling production, and other process.

(a) *Advice by person served.* Any person (including any officers, employee, or agent of the Board or any Federal Reserve Bank) who has documents or information of the Board that may not be disclosed and who is served with a subpoena, order, or other judicial or administrative process requiring his or