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Counsel shall confer with the Directors of other interested Divisions of the Board or their designees. Notwithstanding the foregoing, the Board may, on its own motion if it deems reconsideration appropriate, elect to reconsider its action with respect to any application, and the parties to such application shall be notified by the Secretary of the Board of its election as provided above. If it is determined that the Board should reconsider its action with respect to an application, such action will be stayed and will not be final until the Board has acted on the application upon reconsideration. If appropriate, notice of reconsideration of an application will be published promptly in the FEDERAL REGISTER.

(l) *Waiver.* The Board, or the officer or Reserve Bank authorized to approve an application, may waive or modify any procedural requirements for that application prescribed or cited in this section and may excuse any failure to comply with them upon a finding that immediate action on the application is necessary to prevent the probable failure of a bank or company or that an emergency exists requiring expeditious action.

(12 U.S.C. 1842(a), 1843, and 1844(b), 12 U.S.C. 1828(c), 321 and 248(i))

[38 FR 6807, Mar. 13, 1973, as amended at 42 FR 56719, Oct. 28, 1977; 43 FR 47157, Oct. 12, 1978; 43 FR 49973, Oct. 26, 1978; 44 FR 64399, Nov. 7, 1979; 45 FR 81544, Dec. 11, 1980; 46 FR 5861, Jan. 21, 1981; 49 FR 5605, Feb. 14, 1984; 54 FR 33183, Aug. 14, 1989; 56 FR 38052, Aug. 9, 1991; 56 FR 60056, Nov. 27, 1991; 57 FR 41642, Sept. 11, 1992; 58 FR 47986, Sept. 14, 1993; 59 FR 54809, Nov. 2, 1994; 63 FR 58621, Nov. 2, 1998; 64 FR 53189, Oct. 1, 1999]

§ 262.4 Adjudication with formal hearing.

In connection with adjudication with respect to which a formal hearing is required by law or is ordered by the Board, the procedure is set forth in part 263 of this chapter, entitled ''Rules of Practice for Formal Hearings.''

§ 262.5 Appearance and practice.

Appearance and practice before the Board in all matters are governed by § 263.3 of this chapter.

§ 262.6 Forms.

Necessary forms to be used in connection with applications and other matters are available at the Federal Reserve Banks. A list of all such forms, which is reviewed and revised periodically, may be obtained from any Federal Reserve Bank.

(a) This action is taken pursuant to and in accordance with the provisions of section 552 of title 5 of the United States Code.

(b) The provisions of section 553 of title 5, United States Code, relating to notice and public participation and to deferred effective dates, are not followed in connection with the adoption of this action, because the rules involved are procedural in nature and accordingly do not constitute substantive rules subject to the requirements of such section.

§§ 262.7–262.24 [Reserved]

§ 262.25 Policy statement regarding notice of applications; timeliness of comments; informal meetings.

(a) *Notice of applications.* A bank or company applying to the Board for a deposit-taking facility must first publish notice of its application in local newspapers. This requirement, found in § 262.3(b)(1) of the Board's Rules of Procedure covers applications under the Bank Holding Company Act and Bank Merger Act, as well as applications for membership in the Federal Reserve System and for new branches of State member banks. Notices of these applications are published in newspapers of general circulation in the communities where the applicant intends to do business as well as in the community where the applicant's head office is located. These notices are important in calling the public's attention to an applicant's plans and giving the public a chance to comment on these plans. To improve the effectiveness of the notices, the Board has supplemented its notice procedures as follows.

(1) The Board has adopted standard forms of notice for use by applicants that will specify the exact date on which the comment period on the application ends, which may not be less than thirty calendar days from the date of publication of the notice. The

newspaper forms also provide the name and telephone number of the Community Affairs Officer of the appropriate Reserve Bank as the person to call to obtain more information about submitting comments on an application. In general, the Community Affairs Officer will be available to answer questions of a general nature concerning the submission of comments and the processing of applications.

(2) The Board also publishes notice of bank holding company applications for bank acquisitions (but not for bank mergers or branches) in the FEDERAL REGISTER after the application is received and the Community Affairs Officer can provide the exact date on which this comment period ends. (The FEDERAL REGISTER comment period will generally end after the date specified in the newspaper notice.)

(3) In addition to the formal newspaper and FEDERAL REGISTER notices discussed above, each Reserve Bank publishes a weekly list of applications submitted to the Reserve Bank for which newspaper notices have been published. Any person or organization may arrange to have the list mailed to them regularly, or may request particular lists, by contacting the Reserve Bank's Community Affairs Officer. Each Reserve Bank's list includes only applications submitted to that particular Reserve Bank, and persons or groups should request lists from each Reserve Bank having jurisdiction over applications in which they may be interested. Since the lists are prepared as a courtesy by the Reserve Bank, and are not intended to replace any formal notice required by statute or regulation, the Reserve Banks and the Board do not assume responsibility for errors or omissions. In addition, the weekly lists prepared by Reserve Banks include certain applications by bank holding companies for nonbank acquisitions filed with the Reserve Bank.

(4) With respect to applications by bank holding companies to engage *de novo* in nonbank activities or make acquisitions of nonbank firms, the Board publishes notice of most of these applications in the FEDERAL REGISTER when the applications are filed. Notice of certain small acquisitions may be published in a newspaper of general circulation in the area(s) to be served. While applications for nonbanking activities are not covered by the provisions of the Community Reinvestment Act or the notice provisions of §262.3 of the Board's Rules of Procedure, the provisions of this Statement apply to such applications.

(b) *Timeliness of comments.* (1) All comments must be actually received by the Board or the Reserve Bank on or before the last date of the comment period specified in the notice. Where more than one notice is published with respect to an application, comments must be received on or before the last date of the latest comment period. The Board's Rules allow it to disregard comments received after the comment period expires. In particular, §262.3(e) of the Board's Rules of Procedure states that the Board will not consider comments on an application that are not received on or before the expiration of the comment period. Thus, a commenter who fails to comment on an application within the specified comment period (or any extension) may be precluded from participating in the consideration of the application.

(2) In cases where a commenter for good cause is unable to send its comment within the specified comment period, §265.2(a)(10) of the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(a)(10)) allows the Secretary of the Board to grant requests for an extension of the period. Under this provision, upon receipt of a request received on or before the expiration of the comment period, the Secretary may grant a brief extension upon clear demonstration of hardship or other meritorious reason for seeking additional time.

(c) *Private meetings.* When a timely protest to approval of an application is received, the Reserve Bank may arrange a meeting between the applicant and the protestant to clarify and narrow the issues, and to provide a forum for the resolution of differences between the protestant and the applicant. If the Reserve Bank decides that a private meeting would be appropriate, the Reserve Bank will arrange a private meeting soon after the receipt

of a protest and the applicant's response, if any, to the protest. In scheduling the meeting, the Reserve Bank will consider convenience to the parties with respect to the time and place of the meeting. A decision to hold a private meeting will not preclude the Reserve Bank or the Board from holding a public meeting or other proceeding if it is deemed appropriate.

(d) *Public meetings.* The Board's General Counsel (in consultation with the Reserve Bank and the directors of other interested divisions of the Board) may order that a public meeting or other proceeding be held if requested by the applicant or a protestant who files a timely protest, or if such a proceeding appears appropriate. In most instances, the determination to order a public meeting will be made after a private meeting has been held; however, where appropriate a public meeting may be convened immediately after receipt of the protest and the applicant's response, if any. Additional information may be requested prior to making a determination to convene a public meeting. In these cases, a determination will be made within ten days from the date all relevant information is received. The public meeting will be scheduled as soon as possible, but in no event, later than 30 days after the decision to hold the proceeding is made. The purpose of the public meeting will be to elicit information, to clarify factual issues related to the application and to provide an opportunity for interested individuals to provide testimony. The Board has adopted the following guidelines to be used for convening public meetings, although specific provisions may be altered by the General Counsel if circumstances warrant.

(1) *Requesting a public meeting.* A meeting may be requested by a person or an organization objecting to the application during the comment period, and by the applicant during the period within which it must respond to comments. Such a request must be timely and in writing.

(i) A protest does not have to be filed in a legal brief or other format in order for a public meeting to be granted. The Community Affairs Officer at the Reserve Bank will be available to assist any member of the public regarding the types of information generally included in protests; the format generally used by protestants; and any other specific questions about the procedures of the Federal Reserve System regarding protested applications.

(ii) In general, a protest should identify the protestant, state the basis for objection to approval of the application, and provide available written evidence to support the objection. Objections to approval of an application must relate to the factors that the Board is authorized to consider in acting on an application. Generally, these factors relate to the financial and managerial resources of the companies and banks involved, the effects of the proposal on competition, and the convenience and needs of the communities to be served by the companies and banks involved. If a public meeting is requested, the protest should indicate that there are members of the public who wish to speak on the issues in a public forum.

(iii) The protest will be transmitted by the Reserve Bank to the applicant, and the applicant will generally be allowed eight business days to respond in writing to the protest.

(2) *Arranging the public meeting.* Public meetings will be arranged and presided over by a representative of the Federal Reserve System (''Presiding Officer''). In determining the time and place for the public meeting, such factors as convenience to the parties, the number of people expected to attend the meeting, access to public transportation and possible after-hour security problems will be taken into account.

(3) *Conducting the public meeting.* Prior to the meeting, all necessary steps will be taken to ensure that the meeting is conducted appropriately, including scheduling of witnesses, submission of written materials and other arrangements. In conducting the public meeting the Presiding Officer will have the authority and discretion to ensure that the meeting proceeds in a fair and orderly manner. Generally, the public meeting will consist of opening and closing remarks by the Presiding Officer, a presentation by the protestant and a presentation by the applicant. An official transcript will be made of

the proceedings and entered into the record. The conclusion of the public meeting normally marks the close of the public portion of the record on the application.

(4) *Notification of Board decision on the application.* After a decision is made on the application, and the applicant is notified of the decision, staff will notify the protestant by telephone. This notification will be confirmed promptly in writing. As set forth in §262.3(k) of the Board's Rules of Procedure (12 CFR 262.3(k)) or §265.3 of the Board's Rules Regarding Delegation of Authority (12 CFR 265.3), a party to the application may request reconsideration of the Board's order, or review of the Reserve Bank's decision.

[49 FR 5603, Feb. 14, 1984, as amended at 57 FR 41642, Sept. 11, 1992]

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