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(3) *Requests for permission to appeal rulings.* (i) To act, when requested by the Secretary, upon any request under §263.10(e) of the Board's Rules of Practice for Hearings (12 CFR part 263) for special permission to appeal from a ruling of the presiding officer on any motion made at a hearing conducted under the rules, and if special permission is granted, the merits of the appeal shall be presented to the Board for decision.

(ii) Notwithstanding §265.3 of this part, the denial of special permission to appeal a ruling may be reviewed by the Board only if a Board member requests a review within two days of the denial. No person claiming to be adversely affected by the denial shall have any right to petition the Board or any Board member for review or reconsideration of the denial.

(4) *Extension of time period for final Board action.* To extend for an additional 180 days the 180-day period within which final Board action is required on an application pursuant to section 7(d) of the International Banking Act.

(b) *Three member Action Committee.* Any three Board members designated from time to time by the Chairman (the ''Action Committee'') are authorized:

(1) *Absence of quorum.* To act, upon certification by the Secretary of the Board of an absence of a quorum of the Board present in person, by unanimous vote on any matter that the Chairman has certified must be acted upon promptly in order to avoid delay that would be inconsistent with the public interest except for matters:

(i) Relating to rulemaking;

(ii) Pertaining principally to monetary and credit policies; and

(iii) For which a statute expressly requires the affirmative vote of more than three Board members.

(2) [Reserved]

[56 FR 25619, June 5, 1991, as amended at 56 FR 67154, Dec. 30, 1991; 62 FR 14793, Mar. 28, 1997]

§ 265.5 Functions delegated to Secretary of the Board.

The Secretary of the Board (or the Acting Secretary) is authorized:

(a) *Procedure*—(1) *Extension of time period for public participation in proposed regulations.* To extend, when appropriate under the Board's Rules of Procedure (12 CFR 262.2 (a) and (b)), the time period for public participation with respect to proposed regulations of the Board.

(2) *Extension of time period in notices, orders, rules, or regulations.* (i) To grant or deny requests to extend any time period in any notice, order, rule, or regulation of the Board relating to filing information, comments, opposition, briefs, exceptions, or other matters, in connection with any application, request or petition for the Board's approval, authority, determination, or permission, or any other action by the Board.

(ii) Notwithstanding §265.3 of this part, no person claiming to be adversely affected by any such extension of time by the Secretary shall have the right to petition the Board or any Board member for review or reconsideration of the extension.

(3) *Conforming citations and references in Board rules and regulations.* (i) To conform references to administrative positions or units in Board rules and regulations with changes in the administrative structure of the Board and in the government and agencies of the United States.

(ii) To conform citations and references in Board rules and regulations with other regulatory or statutory changes adopted or promulgated by the Board or by the government or agencies of the United States.

(4) *Technical corrections in Board rules and regulations.* To make technical corrections, such as spelling, grammar, construction, and organization (including removal of obsolete provisions and consolidation of related provisions), to the Board's rules, regulations, and orders and other records of Board action but only with the concurrence of the Board's General Counsel.

(b) *Availability of information*—(1) *FOIA requests.* To make available, upon request, information in Board records and consider requests for confidential treatment of information in Board records under the Freedom of Information Act (5 U.S.C. 552) and under the Board's Rules Regarding Availability of Information (12 CFR part 261).

(2) *Annual reports on Privacy Act.* To approve annual reports required by the Privacy Act (5 U.S.C. 552a(p)) from the Board to the Office of Management and Budget for inclusion in the President's annual consolidated report to Congress.

(3) *Report on prime rate of commercial banks.* To determine and report, under 26 U.S.C. (IRC) 6621, to the Secretary of the Treasury the average predominant prime rate quoted by commercial banks to large businesses.

(c) *Bank holding companies; Change in bank control; Mergers*—(1) *Reports on competitive factors in bank mergers.* To furnish reports on competitive factors involved in a bank merger to the Comptroller of the Currency and the Federal Deposit Insurance Corporation under the provisions of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)); The Bank Holding Company Act (12 U.S.C. 1842(a), 1843(c)(14)); the Bank Service Corporation Act (12 U.S.C. 1865(a), (b), 1867(d)); the Change in Bank Control Act (12 U.S.C. 1817(j)); and the Federal Reserve Act (12 U.S.C. 321 *et seq.*, 601–604a, 611 *et seq.*).

(2) *Reserve Bank director interlocks.* To take actions the Reserve Bank could take except for the fact that the Reserve Bank may not act because a director, senior officer, or principal shareholder of any holding company, bank, or company involved in the transaction is a director of that Reserve Bank or branch of the Reserve Bank.

(3) *Application approval under section 5(d)(3) of the FDI Act.* To approve applications pursuant to section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)), in those cases in which the appropriate Federal Reserve Bank concludes that, because of unusual considerations, or for other good cause, it should not take action.

(d) *International banking*—(1) *Establishment of foreign branch or foreign agency or of Edge or Agreement Corporations.* To approve, under sections 25 and 25A of the Federal Reserve Act (12 U.S.C. 601 and 604) and Regulation K (12 CFR part 211), the establishment, directly or indirectly, of a foreign branch or agency by a member bank or an Edge or Agreement Corporation if all of the following conditions are met:

(i) The appropriate Reserve Bank and relevant divisions of the Board's staff recommend approval;

(ii) No significant policy issue is raised on which the Board has not expressed its view; and

(iii) The application is not for the applicant's first full-service branch in a foreign country.

(2) *Acquisition of foreign company or U.S. company financing exports.* To grant, under sections 25 and 25A of the Federal Reserve Act (12 U.S.C. 601 and 604) and section 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 1843(c)(13)) and the Board's Regulations K and Y (12 CFR parts 211 and 225), specific consent to the acquisition, either directly or indirectly, by a member bank, an Edge or Agreement corporation, or a bank holding company of stock of a company chartered under the laws of a foreign country or a company chartered under the laws of a state of the United States that is organized and operated for the purpose of financing exports from the United States, and to approve any such acquisition that may exceed the limitations of section 25A of the Federal Reserve Act based on the company's capital and surplus, if all of the following conditions are met:

(i) The appropriate Reserve Bank and all relevant divisions of the Board's staff recommend approval;

(ii) No significant policy issue is raised on which the Board has not expressed its view;

(iii) The acquisition does not result, either directly or indirectly, in the bank, corporation, or bank holding company acquiring effective control of the company, except that this condition need not be met if:

(A) The company is to perform nominee, fiduciary, or other services incidental to the activities of a foreign branch or affiliate of the bank holding company, or corporation; or

(B) The stock is being acquired from the parent bank or bank holding company, or subsidiary Edge or Agreement corporation, as the case may be, and the selling parent or subsidiary holds the stock with the consent of the Board pursuant to Regulations K and Y (12 CFR parts 211 and 225).

(3) *Investments in Edge and Agreement Corporations.* To approve an application by a member bank to invest more than 10 percent of capital and surplus in Edge and agreement corporation subsidiaries, provided that:

(i) The member bank's total investment, including the retained earnings of the Edge and agreement corporation subsidiaries, does not exceed 20 percent of the bank's capital and surplus or would not exceed that level as a result of the proposal; and

(ii) The proposal raises no significant policy or supervisory issues.

(e) *Member banks*—(1) *Waiver of penalty for early withdrawals of time deposits.* To permit depository institutions to waive the penalty for early withdrawal of time deposits under section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) and §204.2 of Regulation D (12 CFR part 204) if the following conditions are met:

(i) The President declares an area of major disaster or emergency area pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141);

(ii) The waiver is limited to depositors suffering disaster or emergency related losses in the officially designated area; and

(iii) The appropriate Reserve Bank and all relevant divisions of the Board's staff recommend approval.

(2) [Reserved]

(f) *Location of institution.* To determine the Federal Reserve District in which an institution is located pursuant to §204.3(b)(2)(ii) of Regulation D (12 CFR part 204) or §209.15(b) of Regulation I (12 CFR part 209) if:

(1) The relevant Federal Reserve Banks and the institution agree on the specific Reserve Bank in which the institution should hold stock or with which the institution should maintain reserve balances; and

(2) The agreed-upon location does not raise any significant policy issues.

[56 FR 25619, June 5, 1991, as amended at 56 FR 67153, 67154, Dec. 30, 1991; 58 FR 26509, May 4, 1993; 62 FR 34617, June 27, 1997; 66 FR 58655, Nov. 23, 2001]

§265.6 Functions delegated to General Counsel.

The Board's general counsel (or the general counsel's delegee) is authorized:

(a) *Procedure*—(1) *Reconsideration of Board action.* Pursuant to §262.3(i) of this chapter (Rules of Procedure) to determine whether or not to grant a request for reconsideration or whether to deny a request for stay of the effective date of any action taken by the Board with respect to an action as provided in that part.

(2) *Public meetings.* To order, after consulting with the directors of other interested divisions of the Board and the appropriate Reserve Bank, that a public meeting or other proceeding be held, under §262.25 of the Board's Rules of Procedure (12 CFR part 262), in connection with any application or notice filed with the Board, and to designate the presiding officer in the proceeding under terms and conditions the General Counsel deems appropriate.

(3) *Designation of Board counsel for hearings.* To designate Board staff attorneys as Board counsel in any proceeding ordered by the Board in accordance with §263.6 of the Board's Rules of Practice for Hearings (12 CFR part 263).

(4) *Oaths, depositions, subpoenas.* To take, or authorize designated persons to take, with the concurrence of the Director of the Division of Banking Supervision and Regulation, actions permitted under 12 U.S.C. 1818(n), 1820(c), and 12 U.S.C. 1844(f), including administering oaths and affirmations, taking depositions, and issuing, revoking, quashing, or modifying subpoenas duces tecum.

(b) *Availability of Information*—(1) *FOIA requests.* To make available information of the Board of the nature and in the circumstances described in the Board's Rules Regarding Availability of Information (12 CFR part 261).

(2) *Disclosure to foreign authorities.* To make the determinations required for disclosure of information to a foreign bank regulatory or supervisory authority, and to obtain, to the extent necessary, the agreement of such authority to maintain the confidentiality of such information to the extent possible under applicable law.