

its proposed definition of a colored lamp by using a maximum value of CRI or a suitable band of CCT. Therefore, the Department is considering a definition of colored fluorescent lamp as a lamp with a CRI value less than 40 or a color correlated temperature not above 2,500° K for red and yellow colors or not below 6,600° K for blue and green colors. The Department is also considering a definition of colored incandescent lamp as a lamp with CRI values below 50 or a lamp color correlated temperature either not above 2,500° K for red and yellow colors or not below 4,600° K for blue and green colors. The Department believes that the measurements required to determine if a lamp is colored by the above definitions are minimal. The CRI is a required measurement for fluorescent lamps and manufacturers would only have to make a CRI measurement for lightly tinted incandescent lamps. The color temperature is derived from spectroradiometric measurements and this data already exists for most lamps.

However, at the July 19, 1995 lamp workshop, NEMA proposed an alternative definition of colored lamps which depends on the excitation purity of a colored source. Excitation purity is defined as the ratio of two collinear distances (NC/ND) on the Commission Internationale de L'clairage (CIE) chromaticity diagram. NC is the distance between the point representing the sample lamp and a specified reference point. ND is the distance between the point locating the dominant wavelength of the sample lamp and the specified reference point. NEMA suggests that a value of excitation purity greater than 50 percent would be a reasonable lower limiting value defining a colored lamp. NEMA claims that a single definition will suffice for all colors. Plotting one number on the x,y chromaticity diagram which shows the 50 percent excitation purity area marked on it will quickly determine whether a lamp is colored. Furthermore, NEMA requested that the Department not finalize the colored lamp definition until they complete their specification of chromaticity coordinate boundaries.

NEMA notes that the excitation purity method proposed will not discriminate between clear and colored lamps with CCT's from slightly above 2,856°K and lower. This is an inherent drawback of the chromaticity diagram and redefining the excitation purity limit will not correct it. NEMA suggests that the Department define a colored region around the black body locus on the chromaticity diagram as white. The area within the 50 percent excitation purity area is called pastel and lamps in this

area must be marked for a specific application to be called colored. Although the excitation purity method fits DOE's criteria for a measurable colored lamp definition, the Department is not inclined to adopt this method because it is complicated to describe due to the use of three zones on the chromaticity diagram.

As a second option, the Department is considering a colored lamp definition using x, y chromaticity coordinates which lie outside of the area bounded by the following points: (0.285,0.332); (0.453,0.440); (0.500,0.440); (0.500,0.382); (0.440,0.382); (0.285,0.264). These boundaries are taken from CIE Publication No. 2.2, Colors of Light Signals.

The Department believes that defining a colored lamp by using the chromaticity coordinates above will satisfy manufacturers' concerns that lamps of low color temperature but near the black body locus should be considered white. Likewise, this method satisfies a DOE concern that valid orange and red colored lamps on or near the black body locus would not be considered colored.

Since an incandescent lamp creates light by heating a filament "white hot," some lightly tinted incandescent lamps lie very near the black body curve on the x-y chromaticity diagram. The Department believes that the x-y chromaticity definition of colored lamps will apply to nearly all colored lamps with a few significant exceptions. Very lightly tinted incandescent lamps, such as jeweler's blue and plant grow lamps, may not meet the colored lamp definitions as they are currently proposed. NEMA recommends an exemption for colored incandescent plant lamps because there is a filter in these lamps which affects the yellow and green parts of the spectrum. NEMA also suggests that DOE require manufacturers provide a generic description of a plant lamp's features and require that these lamps be marketed and designated for plant lighting applications. In addition to the above, GE Lighting proposes to add that colored lamps are not suitable for general lighting applications. Therefore, the Department is considering an additional criteria in the definition of colored incandescent lamps that would require application specific incandescent colored lamps to be designated as such on the lamp and in marketing materials.

Additionally, Durotest has urged the Department to provide an explicit exemption for neodymium lamps because they claim that the color is doped directly into the glass bulb.

Therefore, the Department is considering specifying that incandescent lamps with lens filters containing 5 percent or more neodymium are colored lamps. The neodymium filter adjusts the light spectrum for reptile lighting applications.

#### 4. Public Meeting Procedure

At the public meeting, DOE will seek discussion of the points discussed in this notice. Should any party wish to raise any other matter addressed in the Interim Final or Proposed Rules, they should so notify DOE by February 29, 1996.

The meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by antitrust law. After the meeting and period for written statements, the Department will consider the views presented in formulating a Final Rule regarding fluorescent and incandescent lamp test procedures.

Issued in Washington, DC, February 22, 1996.

Brian T. Castelli,  
Chief of Staff, Energy Efficiency and  
Renewable Energy.

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 261

[Docket No.R-0917]

#### Rules Regarding Availability of Information

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is proposing technical amendments to its Rules Regarding Availability of Information (Information Rules). The Board's review of the Information Rules has been conducted in accordance with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. The proposed amendments clarify certain provisions of the Rules and simplify the processing of requests for access to information in certain circumstances. More specifically, the Board's proposed changes would conform the language of

the Rules to changes in the law with which the Board is in compliance; expand delegations of authority to simplify and expedite the Board's responses to requests for access to information submitted by law enforcement authorities; expand the delegated authority of the General Counsel by including authority to determine requests for permission to use any confidential information of the Board in litigation and pre-litigation investigations; clarify provisions of Subpart B relating to requests for information under the Freedom of Information Act (FOIA), and clarify or simplify various other provisions of the Rules as set forth in **SUPPLEMENTARY INFORMATION**.

**DATES:** Comments should be received by March 29, 1996.

**ADDRESSES:** Comments should refer to Docket No. R-0917, and be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Comments may also be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard between Constitution Avenue and C Street at any time. Comments may be inspected in Room MP-500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in the Board's Rules Regarding Availability of Information.

**FOR FURTHER INFORMATION CONTACT:** Karen A. Appelbaum, Staff Attorney (202) 452-3389 or Stephen L. Siciliano, Special Assistant to the General Counsel for Administrative Law (202) 452-3920, Legal Division, Board of Governors of the Federal Reserve System, Washington, D. C. 20551. For users of Telecommunication Device for the Deaf (TDD) *only*, please contact Dorothea Thompson (202) 452-3544.

**SUPPLEMENTARY INFORMATION:** The Board is proposing changes in its Information Rules, 12 CFR part 261. In compliance with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, these changes are designed to streamline and improve the efficiency of the Information Rules. The revisions clarify portions of the Information Rules, enhance the delegated authority of the Director of the Division of Banking Supervision and Regulation, the Director of the Division of Consumer and Community Affairs, and the Federal Reserve Banks in order to simplify the disclosure of confidential information for law enforcement and related

purposes, enhance the authority of the General Counsel to act on requests for permission to use any confidential information of the Board in litigation, conform the Rules to changes in the law with which the Board is already in compliance, clarify or simplify provisions regarding the processing of Freedom of Information Act requests, and generally facilitate the Board's efforts to cooperate with law enforcement investigations. These changes would not alter the Secretary's authority under the Freedom of Information Act where litigants choose to invoke that authority.

The Board proposes to amend § 261.1(a) by the addition of statutory references and other language to clarify that these Rules authorize the disclosure or production of information in all situations covered by these Rules in which such disclosure or production is necessary or appropriate in carrying out any of the Board's statutory responsibilities in accordance with the procedures and standards set forth in these Rules. The Board has determined that disclosures of information pursuant to these Rules is authorized by law.

Section 261.13 presently authorizes the General Counsel to approve or deny requests for permission to obtain and use confidential supervisory information of the Board in litigation. The Board proposes to amend § 261.13 by expanding its scope to cover all confidential information of the Board, including but not limited to confidential supervisory information. When § 261.13 was adopted in its present form, the Board had virtually no experience with litigation-related demands for confidential information that is not supervisory, but such demands have increased in recent years. In addition, the list of factors to be considered by the General Counsel is expanded. The expanded list incorporates the factors relied upon by the court in *In Re: Subpoena*, 967 F.2d 630 (D.C. Cir. 1992), with regard to requests for confidential supervisory information. It continues to be the Board's intention that persons seeking confidential information of the Board for use in litigation be required to exhaust administrative remedies under § 261.13 before seeking judicial process. See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

The Board also proposes to expand the delegated authority of Federal Reserve Banks and of certain Board officers and their designees in order to simplify and expedite the transfer of information to law enforcement authorities in accordance with law.

Finally, as noted below, the Board proposes to amend the Information Rules to take account of section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), sections 913 and 931 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), and section 2547 of Title XXV of the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990 (Bank Fraud Act).<sup>1</sup>

Section 913 of FIRREA and section 2547 of the Bank Fraud Act (codified at 12 U.S.C. 1818(u)) require the Board to "publish and make available to the public" final cease and desist, removal, prohibition, and civil money penalty enforcement orders, including any modifications or terminations thereof, supervisory written agreements, and certain other enforceable written actions. Such matters come under the definition of "confidential supervisory information", the disclosure of which is restricted under language currently in the Board's Information Rules. See 12 CFR 261.2(b) and 12 CFR 261.11.

Section 931 of FIRREA (codified at 12 U.S.C. 1817(a)) requires that any insured depository institution that uses an independent auditor (or that used one in the two years prior to the enactment of FIRREA) transmit to such auditor a copy of its most recent examination report, as well as any supervisory memorandum of understanding with the depository institution, any written agreement between the institution and a Federal or State banking agency, and any report of an enforcement action against the institution or any institution-affiliated party. This provision applies only to insured depository institutions, that is, to banks and savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act. 12 U.S.C. 1813(c)(2) and 1817(a)(8).

With respect to fiscal years beginning after December 31, 1992, Section 112 of FDICIA (codified at 12 U.S.C. 1831m) requires that the financial statements of each insured depository institution be audited annually by an independent public accountant. Pursuant to this section, the insured depository institution must transmit to the independent public accountant retained to perform the institution's audit the most recent examination report of the institution and any supervisory memorandum of understanding or written agreement between the

<sup>1</sup> The Board's Rules have been implemented in a manner consistent with these and other changes described below.

institution and its Federal or state regulators, if such memorandum of understanding or agreement is in effect during the period covered by the audit. The institution must also provide its outside auditor with a report of supervisory actions initiated and civil money penalties assessed by the Board during the period covered by the audit.

To conform to these provisions, the Board proposes to amend the definition of "confidential supervisory information" in 12 CFR 261.2(b) to exclude those matters that must be made available to the public under 12 U.S.C. 1818(u), as amended. The proposal would also amend § 261.11 specifically to require insured depository institutions to disclose confidential supervisory information to their independent auditors in accordance with 12 U.S.C. 1817(a)(8) and 12 U.S.C. 1831m (i.e., by providing copies),<sup>2</sup> but to continue to prohibit the auditor from disclosing such information to any third party, or otherwise disclosing in whole or in part any portions of reports of examination and inspection, without prior written approval of the Board or its General Counsel acting pursuant to delegated authority. Bank holding companies, which are not insured depository institutions under 12 U.S.C. 1813(c)(2), would be authorized but not required to provide copies of reports of examination and inspection to their independent auditors in similar circumstances, and subject to the same limitations, as banks. The Board intends that all reports of examination and inspection be subject to this provision, not merely those that address only the financial soundness of the institution. The Board intends further that institutions regulated by the Board but not subject to 12 U.S.C. 1817(a)(8) be able to share examination and inspection reports of all kinds with their auditors as appropriate. This would include, for example, trust company, consumer compliance, and automated data processing reports.

Additional specific amendments are:

1. An amendment to § 261.1(a) to clarify the authority under which the Information Rules are issued. The Federal Register document that announced the present Information Rules erroneously omitted a reference to 12 U.S.C. 1844, although this reference was included under "Authority" at the end of the index that was published with the Rules. 53 FR 20815, June 7, 1988. This omission is corrected, and

additional statutory references are added to clarify that the Information Rules address the management and disclosure of information pursuant to the Board's supervisory, regulatory, and other statutory responsibilities, in addition to its responsibilities under the Freedom of Information Act;

2. An addition to § 261.2 to define the term *exempt information*. This new definition is pertinent to a proposed amendment to section 261.13, described below, that expands the scope of the General Counsel's delegated authority regarding litigation requests and subpoenas. Under this amendment, the General Counsel's delegated authority to act on all litigation-related requests and subpoenas would extend to all confidential information of the Board (i.e., exempt information) rather than only to confidential information that is supervisory in nature;

3. Additions to § 261.3(c) clarifying that the Secretary of the Board is the Board's agent for service of all process, and that the Board will not accept process on behalf of employees in connection with purely private matters except as provided by applicable law;

4. An amendment to § 261.3(d) to clarify that authority delegated to the General Counsel and other officers of the Board may be subdelegated;

5. An amendment to § 261.6(a)(1) to include the public section of Community Reinvestment Act examination reports among the types of records made available to the public upon request;

6. A revision to § 261.9(a)(1) clarifying that a request made under the Freedom of Information Act may not be combined with any other request to the Board except a request under section 261a.3(a) and 261.13;

7. An amendment to § 261.9(a)(1)(ii) clarifying that if a request is made in connection with on-going litigation, the requester may include a statement indicating whether or not he or she will seek discretionary release of exempt information if the request is denied. If so, the requester shall also address the factors set forth in § 261.13(b), and the Freedom of Information Office will promptly forward any denial or partial denial to the General Counsel for processing under § 261.13.

8. A revision to § 261.9(b)(1) clarifying that the time period for a Freedom of Information response begins when the request is received in the Board's Freedom of Information Office;

9. A revision to § 261.10(a) removing the language that permits the Secretary

of the Board to adjust Freedom of Information Act (FOIA) fee schedules;<sup>3</sup>

10. Amendments to § 261.10(g) raising to \$100 the cost threshold at which the Secretary must notify a Freedom of Information Act requester of the estimated fee for filling his or her request; and to § 261.10(h)(2), to clarify that this section applies to requests for reduction of fees as well as to requests for waiver of fees;

11. Amendments to § 261.11(b) to permit the Federal Reserve Banks to make exempt information available to outside counsel retained or employed by a Federal Reserve Bank in appropriate circumstances and to clarify that a Federal Reserve Bank may make available to a bank holding company any confidential supervisory information of the Board relating to a subsidiary of the bank holding company.

12. Amendments to § 261.11(c) to clarify that authority may be exercised either upon request or at the initiative of the delegee; to substitute the Office of Thrift Supervision for the Federal Home Loan Bank Board as an agency that may receive confidential supervisory information of the Board from the Director of the Division of Banking Supervision and Regulation or a Federal Reserve Bank; and to add the National Credit Union Administration to the list of agencies that may receive information. Further amendments to this section would delegate authority to the Director to provide such information to the Securities and Exchange Commission pursuant to section 17(c)(3) of the Securities Exchange Act of 1934, 15 U.S.C. 78q(c)(3) (reports regarding transfer agents, clearing agencies, and municipal securities dealers),<sup>4</sup> and section 321 of the Trust Indenture Act of 1939, 15 U.S.C. 77uuu(b) (trustees and prospective trustees); to the Department of the Treasury, the Securities and Exchange Commission and other appropriate authorities pursuant to section 15C(d)(2) of the Securities Exchange Act of 1934, 15 U.S.C. 780-5(d)(2) (government securities broker and dealer activities of State member banks); to the Department of the Treasury pursuant to section 128 of the Bank Secrecy Act, 12 U.S.C. 1951 *et seq.* and 31 U.S.C., Chapter 53; to the Department of Labor, pursuant to section 3004(b) of the Employee Retirement Income Securities Act, 29

<sup>3</sup> The FOIA now provides that the schedules may be changed only by rule; and the Federal Reserve Act forbids the Board to delegate any of its rulemaking authority. 12 U.S.C. 248(k).

<sup>4</sup> This conforms to a provision in the Delegation Rules, 12 CFR 265.7(f)(8).

<sup>2</sup> The text of the present Information Rules permits disclosure of such information to auditors only on bank premises.

U.S.C. 1204;<sup>5</sup> to any Federal Home Loan Bank pursuant to section 22 of the Federal Home Loan Act, 12 U.S.C. 1442, as amended by FIRREA (member financial information);<sup>6</sup> and to any other Federal agency or instrumentality in circumstances in which the General Counsel has determined that disclosure is required by statute. Many of the above authorities concern disclosures that the Board is either required or strongly encouraged to make by statute but that, with few exceptions, have not heretofore been explicitly addressed in the Board's Information Rules. As a practical matter, such omissions have effectively vested disclosure authority in the General Counsel;

13. Amending § 261.11(c) to specify the authority of the Director of the Division of Consumer and Community Affairs to provide exempt information to appropriate federal and state financial institution supervisory agencies;

14. Additions to § 261.12: (1) Authorizing any Federal Reserve Bank, the Director of the Division of Banking Supervision and Regulation and the Director of the Division of Consumer and Community Affairs to refer possible violations of criminal laws and suspicious activities to the Department of Justice and other appropriate Federal law enforcement authorities, and incident to any such referral, to provide the appropriate authority with confidential information of the Board related to any such matter;<sup>7</sup> (2) authorizing Board and Federal Reserve Bank staff to provide supervisory information to General Accounting Office staff consistent with applicable law; (3) delegating to the Director of the Division of Consumer and Community Affairs, authority to refer to consumer

law violations to appropriate law enforcement authorities; (4) authorizing Board and Federal Reserve Bank staff to make confidential supervisory information available to the Internal Revenue Service consistent with written policies of the Board regarding confirmation of charge-offs declared for tax purposes.

15. An amendment to § 261.12(a) to clarify that the General Counsel may act either upon request or upon his or her own initiative;

16. An amendment to § 261.12(c)(4) requiring that a person who requests information must identify the source of his or her legal authority to make the request and to receive the requested information.

17. Amendments to § 261.13, which governs the disclosure of information to persons not covered by §§ 261.11 and 261.12, to specify that the section applies to the disclosure of all confidential information of the Board (i.e., to "exempt information"), not merely to confidential supervisory information. The amendments also expand the factors considered by the Board in deciding a request made under this section, including consideration of the factors set forth in *In Re: Subpoena*, 967 F.2d 630 (D.C. Cir. 1992), where applicable. The amendments state in greater detail the standards applicable to determinations by the General Counsel by adding standards regarding the cost of producing documents and/or testimony;

18. An additional amendment to § 261.13 to state that requests will generally be handled in the order in which they are received. Requesters who desire an expedited response to a request for information must explain why the request should be expedited and address the possible unfairness to other requesters whose pending requests may be delayed;

19. An amendment to § 261.13 stating that following receipt of a request for exempt information, the Board will generally notify the supervised financial institution that is the subject of the requested information.

20. A clarification that the requirement of notice to submitters of confidential information provided for in § 261.17(a), applies only in the case of requests made pursuant to the FOIA;<sup>8</sup>

21. A revision of § 261.17(b)(3) to clarify that a submitter may submit written objections to the disclosure of information by the Board within ten days of oral notice from the Secretary or his or her designee, or if no oral notice is given, within ten days of written notice from the Secretary or his or her designee;

#### Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board certifies that the proposed amendments will not have a significant economic impact on a substantial number of small entities. These amendments simplify some of the procedures regarding release of information and require disclosure of information in certain instances in accordance with law. The requirements to disclose should not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act Analysis

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. Comments on the collections of information in this proposed regulation should be sent to the Office of Management and Budget, Paperwork Reduction Act Project (7100-0281), Washington, DC 20503, with copies of such comments to be sent to Mary McLaughlin, Federal Reserve Board Clearance Officer, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

The collection of information requirements in this proposed regulation are found in 261.9, 261.10 and 261.13. The respondents may include small for-profit institutions. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to this information collection request unless it displays a currently valid OMB control number. The OMB control number is 7100-0281.

It is estimated that there will be 5,000 annual respondents for requests made under 12 CFR 261.9, including approximately 100 that include requests made under 12 CFR 261.10 to waive fees. The burden per response for these requests ranges from 15 to 60 minutes, with an average of 30 minutes. The estimated total annual burden is 2,500

Board does not disclose its receipt of federal grand jury subpoenas, however, except in accordance with law following consultation with appropriate law enforcement authorities.

<sup>5</sup> The Director has already been delegated authority to notify the Department of violations of ERISA in the Delegation Rules, 12 CFR 265.7(e)(3), but repetition of that delegation in the Information Rules is appropriate in the interest of clarity.

<sup>6</sup> Disclosure of information to Federal Home Loan Banks under this provision is presently the subject of a written agreement among those Banks, the Federal Housing Finance Board, and the member agencies of the Federal Financial Institutions Examination Council.

<sup>7</sup> The power of Reserve Banks to refer violations of criminal law is a well established policy of the Board that has not heretofore been memorialized in the Information Rules. Accordingly, it has been necessary in some cases for Reserve Banks to seek approval by the Board's General Counsel, pursuant to delegated authority, to provide information to a United States Attorney in addition to what is provided on the referral form. The Board believes that simplification of this process under the proposed amendment would be beneficial. The Director of the Board's Division of Banking Supervision and Regulation also is delegated authority to make referrals concerning violations of criminal laws. Federal Reserve Banks will be required under a Board policy to consult with Board staff with regard to such referrals.

<sup>8</sup> This clarification makes it clear that § 261.17 is intended only to address matters of the kind covered by Executive Order 12600, June 23, 1987. This clarification does not preclude the Board or its staff from giving notice to submitters in other situations such as, for example, where documents obtained pursuant to a confidentiality commitment are subpoenaed. The Board exercises its discretion in such cases consistent with applicable law. The

hours. Based on an hourly cost of \$20, the annual cost to the public is estimated to be \$50,000. Generally, requests made under 12 CFR 261.9 and 12 CFR 261.10 are not exempt from disclosure under the Freedom of Information Act.

It is estimated that there will be 30 annual respondents for requests made under 12 CFR 261.13 and a total of 60 hours of annual burden. The estimated average annual burden per respondent for requests made under 12 CFR 261.13 is 2 hours. Based on an hourly cost of \$75, the annual cost to the public is estimated to be \$4500. The requests made under 12 CFR 261.13 may be exempt from disclosure under the Freedom of Information Act pursuant to exemption (b)(4), 5 U.S.C. 552(b)(4).

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility; (b) the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the cost of compliance; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

#### List of Subjects in 12 CFR Part 261

Confidential business information, Federal Reserve System, Freedom of information.

### PART 261—RULES REGARDING AVAILABILITY OF INFORMATION

1. The authority citation for Part 261 is revised to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 248(i) and (k), 321 *et seq.*, 611 *et seq.*, 1442, 1817(a)(2)(A), 1817(a)(8), 1818(u) and (v), 1821(o), 1821(t), 1830, 1844, 1951 *et seq.*, 2601, 2801 *et seq.*, 2901 *et seq.*, 3101 *et seq.*, 3401 *et seq.*; 15 U.S.C. 77uuu(b), 78q(c)(3); 29 U.S.C. 1204; 31 U.S.C. 5301 *et seq.*; 42 U.S.C. 3601; 44 U.S.C. 3510.

2. In § 261.1, paragraph (a) is revised to read as follows:

#### § 261.1 Authority, purpose, and scope.

(a) *Authority.* (1) This part is issued by the Board of Governors of the Federal Reserve System (the Board) pursuant to the Freedom of Information Act, 5 U.S.C. 552; Sections 9, 11, and 25A of the Federal Reserve Act, 12 U.S.C. 248(i) and (k), 321 *et seq.*, (including section 326), 611 *et seq.*; Section 22 of the Federal Home Loan Bank Act, 1442; the Federal Deposit Insurance Act, 1817(a)(2)(A), 1817(a)(8), 1818(u) and

(v), 1821(o); section 5 of the Bank Holding Company Act, 1844; the Bank Secrecy Act, 1951 *et seq.* and Chapter 53 of Title 31; the Home Mortgage Disclosure Act, 2801 *et seq.*; the Community Reinvestment Act, 2901 *et seq.*; the International Banking Act, 3101 *et seq.*; the Right to Financial Privacy Act, 3401 *et seq.*; the Securities and Exchange Act, 15 U.S.C. 77uuu(b), 78q(c)(3); the Employee Retirement Income Security Act, 29 U.S.C. 1204; the Money Laundering Suppression Act, 31 U.S.C. 5301, the Fair Housing Act, 42 U.S.C. 3601; the Paperwork Reduction Act, 44 U.S.C. 3510; and any other applicable law that establishes a basis for the exercise of governmental authority by the Board.

(2) Accordingly, this part authorizes the Board or its delegates to disclose confidential information of the Board, in accordance with the procedures set forth in this part, whenever it is necessary or appropriate to do so in the exercise of any of the Board's statutory authority. The Board has determined that such disclosures are authorized by law. In addition, the Board has determined that it is authorized by law to disclose information to a law enforcement or other federal or state government agency that has the authority to request and receive the information or in response to a valid order of a court of competent jurisdiction or of a duly constituted administrative tribunal.

3. Section 261.2 is amended as follows:

a. Paragraphs (b) through (g) are redesignated as paragraphs (c) through (h), respectively;

b. A new paragraph (b) is added;

c. Newly designated paragraph (c) is revised.

The addition and revision read as follows:

#### § 261.2 Definitions.

\* \* \* \* \*

(b) *Exempt information* means information that is exempt from disclosure under § 261.8.

(c)(1) *Confidential supervisory information* means exempt information consisting of reports of examination, inspection and visitation, confidential operating and condition reports, and any information derived from, related to, or contained in them, information gathered by the Board in the course of any investigation, cease-and-desist orders, civil money penalty enforcement orders, suspension, removal or prohibition orders, or other orders or actions under the Financial Institutions Supervisory Act of 1966, as amended,

the Bank Holding Company Act of 1956, as amended, the Federal Reserve Act of 1913, as amended, the International Banking Act of 1978, as amended, and the International Lending Supervision Act of 1983, as amended, except:

(i) Such final orders, amendments, or modifications of final orders, or other actions or documents that are specifically required to be published or made available to the public pursuant to section 913 of the Financial Institutions Reform, Recovery, and Enforcement Act, and section 2547 of the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act, codified at 12 U.S.C. 1818(u), or other applicable law, including the record of litigated proceedings; and

(ii) The public section of Community Reinvestment Act examination reports, 12 U.S.C. 2906(b).

(2) *Confidential supervisory information* may consist of documents prepared by, on behalf of, or for the use of the Board, a Federal Reserve Bank, a Federal or State financial institutions supervisory agency, or a bank or bank holding company or other regulated financial institution.

\* \* \* \* \*

4. Section 261.3 is amended by revising paragraphs (b), (c), and (d) to read as follows:

#### § 261.3 Custodian of records; certification; service; alternative authority.

\* \* \* \* \*

(b) *Certification of record; Secretary of the Board.* The Secretary, or his or her designee, may certify the authenticity of any record of the Board, or of any copy of such record, for any purpose, and for or before any duly constituted Federal or State court, tribunal, or agency.

(c) *Service of subpoenas or other process.* Subpoenas or other judicial or administrative process, demanding access to any records of the Board or making any claim against the Board, shall be addressed to and served upon the Secretary of the Board at the Board's offices in Washington, D.C. 20551.

Neither the Board nor the Secretary are agents for service of process on behalf of any employee in respect of purely private legal disputes, except as specifically provided by law.

(d) *Alternative authority.* Any action or determination required or permitted by this part to be done by the General Counsel or by the Director of any Division may be done by any employee who has been duly designated for this purpose by the General Counsel or by the appropriate Director.

5. Section 261.6 is amended by redesignating paragraphs (a)(4) and (a)(5) as paragraphs (a)(5) and (a)(6),

respectively; and by adding a new paragraph (a)(4) to read as follows:

**§ 261.6 Records available to public upon request.**

(a) \* \* \*

(4) The public section of Community Reinvestment Act examination reports;

\* \* \* \* \*

6. Section 261.9 is amended by revising paragraphs (a)(1) introductory text, (a)(1)(ii), and (b)(1) to read as follows:

**§ 261.9 Procedures for making requests for identifiable records; processing of requests; review of denial of request; time extensions.**

(a) \* \* \* (1) *Contents of request.* A

request for identifiable records shall reasonably describe the records to which access is sought in a way that enables the Board's staff to identify and produce the records with reasonable effort and without unduly burdening or disrupting any of the Board's operations. The request shall be submitted in writing to the Secretary of the Board, and the envelope clearly marked "Freedom of Information Act Request." A request may not be combined with any other request to the Board except for a request under § 261a.3(a) of this chapter (Rules Regarding Access to And Review of Personal Information in Systems of Records) and a request made under § 261.13(b) as described in paragraph (a)(1)(ii) of this section. The request shall contain the following information:

\* \* \* \* \*

(ii) If the request is being made in connection with on-going litigation, a statement indicating whether or not the requester will seek discretionary release of exempt information from the General Counsel in the event the request to the Secretary under this section is denied. A requester who intends to make such a request to the General Counsel may also address the factors set forth in § 261.13(b); and in the event of a denial by the Secretary, the Freedom of Information Office will promptly forward the request and denial directly to the Board's General Counsel for consideration under § 261.13;

\* \* \* \* \*

(b) *Procedures for responding to requests—(1) Time limits.* In response to any request that satisfies paragraph (a) of this section, the Board shall, if necessary, cause an appropriate search to be conducted of records of the Board in existence on the date of receipt of the request, and shall determine within ten working days of receipt of the request whether to comply with the request, unless the running of such time is

suspended for payment of fees pursuant to § 261.10(g)(3), or such period is extended, pursuant to paragraph (e) of this section or § 261.7. The date of receipt for any request, including one that is addressed incorrectly or that is referred to the Board by another agency or by a Federal Reserve Bank, is the date the Board's Freedom of Information Office actually receives the request.

\* \* \* \* \*

7. Section 261.10 is amended by revising paragraphs (a), (g)(2), and (h)(2) introductory text, and by adding a new paragraph (h)(5) to read as follows:

**§ 261.10 Fee schedules; waiver of fees.**

(a) *Fee schedules.* Records of the Board available for public inspection and copying are subject to a written schedule of fees for search, review and duplication. (See Appendix A to this section for schedule of fees.) The fees set forth in the schedule of fees reflect the full allowable direct costs of search, duplication, and review.

\* \* \* \* \*

(g) \* \* \*

(2) *Advance notification of fees.* If the Secretary estimates that charges are likely to exceed \$100, the Secretary shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. Upon receipt of such notice, the requester may confer with the Secretary as to the possibility of reformulating the request in order to lower the costs.

\* \* \* \* \*

(h) \* \* \*

(2) \* \* \* The Secretary shall normally deny a request for a waiver or reduction of fees that does not include:

\* \* \* \* \*

(5) *Effect of requests for waivers.* The Secretary shall make a determination on the request for a waiver or reduction of fees and shall notify the requestor accordingly. A denial may be appealed to the Board in accordance with § 261.9(d)(1). If a waiver is requested and the requester has not indicated in writing that he or she will pay the applicable fees if the waiver request is denied, the request for information shall be deemed not to have been received until a determination has been made on the request for a waiver or reduction.

\* \* \* \* \*

8. Section 261.11 is amended by revising the section heading, paragraphs (a), (b), (c), (e), and (g) to read as follows:

**§ 261.11 Exempt information made available to supervised financial institutions and financial institution supervisory agencies.**

(a) *Disclosure of exempt information to supervised financial institutions.*

Exempt information, including confidential supervisory information, concerning a supervised bank or bank holding company (including subsidiaries), a U.S. branch or agency of a foreign bank, or any other institution examined by the Federal Reserve System (supervised financial institution) may be made available by the Board or the appropriate Federal Reserve Bank to the supervised financial institution.

(b) *Disclosure of confidential supervisory information by supervised financial institutions and by Federal Reserve Banks—(1) Parent bank holding company, directors, officers, and employees.* Any supervised financial institution lawfully in possession of confidential supervisory information of the Board pursuant to this section may disclose such information, or portions thereof, to its directors, officers, and employees, and to its parent bank holding company and its directors, officers, and employees. The appropriate Federal Reserve Bank may also make such information available to a parent bank holding company when such information relates to any subsidiary of the parent bank holding company.

(2) *Legal counsel.* (i) Any supervised financial institution lawfully in possession of confidential supervisory information of the Board pursuant to this section, which information relates to the affairs of the supervised financial institution, may disclose such information, or portions thereof, to any legal counsel employed or retained by the supervised financial institution to represent it, subject to the condition that the legal counsel shall review the confidential supervisory information only on the premises of the supervised financial institution, and shall not make or retain any copies of such information.

(ii) A Federal Reserve Bank may make exempt information available to outside counsel retained by the Federal Reserve Bank when needed by the outside counsel in connection with its representation of the Federal Reserve Bank.

(3) *Independent auditors.* (i) Each insured depository institution that engages the services of an independent auditor to audit such institution shall transmit to the auditor to the extent permitted or required by applicable statutes:

(A) A copy of the most recent report of examination received by the insured depository institution (including but not limited to all formal bank examination reports such as trust company, consumer compliance, and automated data processing reports) and a copy of the most recent report of condition made by the institution pursuant to any provision of law; and

(B) A copy of any supervisory memorandum of understanding with the insured depository institution and any written agreement between a Federal or State banking agency and the insured depository institution which are in effect during the period covered by the audit; and

(C) A report of any action initiated or taken by the Board or the Federal Deposit Insurance Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s) or (t) of section 8 of the Federal Deposit Insurance Act; any action taken by any appropriate State bank supervisor under State law which is similar to any such action; and any other civil money penalty assessed under any other provision of law with respect to the insured depository institution or any institution-affiliated party.

(ii) For purposes of this section, *insured depository institution* means any bank or savings association the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to Chapter 16 of Title 12, United States Code. Any financial institution supervised by the Board that is not an insured depository institution, including a bank holding company, may make copies of documents identified in this paragraph (b) available to its independent auditor in the same circumstances, and subject to the same conditions and limitations, as an insured depository institution.

(iii) Any insured depository institution or other financial institution supervised by the Board also may make such information available to independent auditors, whose engagements do not include audits within the scope of 12 U.S.C. 1817(a)(8), in the manner specified in paragraph (b)(2) of this section, where access to such information is needed for the performance of functions within the scope of the engagement.

(4) *Limitation.* Any legal counsel or independent auditor given access to confidential supervisory information pursuant to paragraphs (b)(2) and (b)(3) of this section shall not disclose the confidential supervisory information for any purpose without the prior written approval of the Board's General Counsel, except as necessary to provide

advice to the supervised financial institution, its parent bank holding company, or the officers, directors, and employees of the supervised financial institution or parent bank holding company.

(c) *Disclosure to certain agencies, including Federal financial institution supervisory agencies—*(1) *Disclosure to certain agencies by the Director of the Division of Banking Supervision and Regulation.* Upon request or on his or her initiative, the Director of the Division of Banking Supervision and Regulation or an officer of the appropriate Federal Reserve Bank may make available exempt information (including confidential supervisory information), and other appropriate information relating to a bank, bank holding company (including subsidiaries), U.S. branch or agency of a foreign bank, or other supervised financial institution, to the following agencies and their regional offices and representatives:

(i) The Comptroller of the Currency;  
(ii) The Federal Deposit Insurance Corporation;

(iii) The Office of Thrift Supervision;  
(iv) The National Credit Union Administration;

(v) The Securities and Exchange Commission pursuant to 15 U.S.C. 77uuu(b) and 15 U.S.C. 78q(c)(3);

(vi) The Department of the Treasury pursuant to the Bank Secrecy Act, 12 U.S.C. 1951 *et seq.* and subchapter II of Chapter 53 of Title 31, U.S. Code;

(vii) The Department of the Treasury, the Securities and Exchange Commission and other appropriate authorities pursuant to 15 U.S.C. 78o-5(d)(2); and

(viii) The Department of Labor pursuant to section 3004(b) of the Employee Retirement Income Security Act (29 U.S.C. 1204); or

(ix) Any other Federal agency or instrumentality in circumstances in which the Board's General Counsel has determined that disclosure is required by statute.

(2) *Disclosure to a Federal Home Loan Bank.* In accordance with 12 U.S.C. 1442, the Director of the Division of Banking Supervision and Regulation may make confidential supervisory information available to any Federal Home Loan Bank.

(3) *Disclosure of information acquired under Board regulations G, T, U, and X.* The Director of the Division of Banking Supervision and Regulation may disclose to appropriate financial institution supervisory agencies information acquired under Board Regulations G, T, U, and X (12 CFR parts 207, 220, 221, 224).

(4) *Disclosure to certain agencies by the Director of Consumer and Community Affairs.* Upon request or upon his or her own initiative, the Director of the Board's Division of Consumer and Community Affairs may provide exempt information (including confidential supervisory information) and other appropriate information to federal and state financial institution supervisory agencies in connection with: A possible violation, or a consumer complaint alleging a violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), Fair Lending Act (42 U.S.C. 3601 *et seq.*), Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.*), Truth in Lending Act (15 U.S.C. 1601 *et seq.*), Truth in Savings Act (12 U.S.C. 4301 *et seq.*), Electronic Fund Transfers Act (15 U.S.C. 1693 *et seq.*), Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), Fair Debt Collections Practices Act (15 U.S.C. 1692 *et seq.*), Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*), or any regulations promulgated under any of those statutes.

\* \* \* \* \*

(e) *Discretionary disclosures.* The Board may determine, from time to time, to authorize other disclosures of legally obtained confidential information as necessary.

\* \* \* \* \*

(g) *Other disclosure prohibited.* All confidential supervisory information or other information made available under this section shall remain the property of the Board. No supervised financial institution, financial institution supervisory agency, person, or any other party to whom confidential supervisory information is made available under any provision of Subchapter C, or any officer, director, employee or agent thereof, may disclose such information without the prior written permission of the Board's General Counsel 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, corporation, or other entity. No person obtaining access to confidential supervisory information pursuant to this section may make a personal copy of any such information; and no person may remove confidential supervisory information from the premises of the institution or agency in possession of such information except as permitted by specific language in this part or by the Board.

\* \* \* \* \*

9. Section 261.12 is amended as follows:

a. The section heading, paragraphs (a), (c)(4), and (g) are revised; and  
b. New paragraphs (h) and (i) are added.

The revisions and additions read as follows:

**§ 261.12 Exempt information made available to law enforcement agencies and other nonfinancial institution supervisory agencies.**

(a) *Disclosure.* Upon written request to the General Counsel pursuant to paragraph (c) of this section, or on the initiative of the Board or the General Counsel, the Board may make available to appropriate law enforcement and to other government agencies for use where necessary in the performance of official duties, reports of examination and inspection, confidential supervisory information, other exempt information of the Board concerning banks, bank holding companies and their subsidiaries, U.S. branches and agencies of foreign banks, other examined institutions, and other information in accordance with applicable law.

\* \* \* \* \*

(c) \* \* \*

(4) The head of the law enforcement agency shall address a letter request to the Board's General Counsel, specifying whether the requested disclosure is permitted or restricted in any way by applicable law or regulation. The requester must identify the source of his or her legal authority to make the request and to receive the requested information;

\* \* \* \* \*

(g)(1) *Referrals of violations of criminal law.* Notwithstanding any other provision of this section, Federal Reserve Banks, the Director of the Board's Division of Banking Supervision and Regulation, and the Director of the Board's Division of Consumer and Community Affairs may refer possible violations of criminal law and suspicious activities to the Department of Justice and other appropriate Federal law enforcement authorities and incident to any such referral, may provide to the appropriate law enforcement authority exempt information, including confidential supervisory information related to such matter in addition to the information initially provided on the applicable referral form.

(2) *Referrals of consumer law violations.* Upon request or upon his or her own initiative, the Director of the Board's Division of Consumer and Community Affairs may provide exempt information, including confidential supervisory information, or other appropriate information to appropriate

law enforcement authorities in connection with: A possible violation, or a consumer complaint alleging a violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), Fair Housing Act (42 U.S.C. 3601 *et seq.*), Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.*), Truth in Lending Act (15 U.S.C. 1601 *et seq.*), Truth in Savings Act, (12 U.S.C. 4301 *et seq.*), Electronic Fund Transfers Act (15 U.S.C. 1693 *et seq.*), Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), Fair Debt Collections Practices Act (15 U.S.C. 1692 *et seq.*), Real Estate Settlement Procedures Act (12 U.S.C. 2601), or any regulations promulgated under any of those statutes.

(h) *Disclosure to General Accounting Office and Internal Revenue Service.* Notwithstanding any other provision of this section, the Director, Division of Banking Supervision and Regulation and any Federal Reserve Bank may disclose information to the U.S. General Accounting Office of the kind and subject to the conditions specified in 31 U.S.C. 714, and the Director, a Federal Reserve Bank, or any Federal Reserve examiner may disclose confidential supervisory information to the Internal Revenue Service in accordance with the Board's Supervisory Letter, SR 92-39 (October 30, 1992) and any subsequent authorized revisions of SR 92-39 (For availability of copies, see § 261.5(f).)

(i) *Other disclosure prohibited.* All reports and information made available under any provision of subpart C of this part shall remain the property of the Board. Any person in possession of such information shall not use or disclose such information for any purpose except as authorized under this part.

10. Section 261.13 is revised to read as follows:

**§ 261.13 Other disclosure of exempt information.**

(a) *Board policy.* (1) It is the Board's policy regarding confidential supervisory information that such information is confidential and will not normally be disclosed to the public. Requests for disclosure of confidential supervisory information under this section will not be approved unless the person requesting disclosure meets the criteria set forth in this section. In addition, it is the policy of the Board to reserve to itself or its General Counsel the authority to authorize production of exempt information, including confidential supervisory information, for use in any civil or administrative litigation. Requests for discretionary release of exempt information for use in litigation made pursuant to

§ 261.9(a)(1)(ii) will be forwarded to the General Counsel for consideration.

(2) The Board generally will process requests in the order in which they are received. A requester seeking an expedited response must explain why the request should be expedited and, in so doing, must address the possible unfairness to other requesters whose pending requests may be delayed.

(b) *Requests for disclosure—(1) Requests from litigants for information or testimony.* Any person (except agencies referred to in §§ 261.11 and 261.12) seeking access to exempt information (including confidential supervisory information) or seeking to obtain the testimony of present or former Board or Reserve Bank employees on matters involving exempt information of the Board, whether by deposition or otherwise, for use in litigation before a court, board, commission, agency, or other tribunal, may 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 exempt information is sought, including the caption and docket number of the case and the name, address, and telephone number of counsel to each party in the case;

(iii) A description of any prior judicial decisions or pending motions that may bear upon the asserted relevance of the requested information;

(iv) The relationship of the exempt information to the issues or matters raised by the judicial or administrative action;

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

(vi) Whether the requested disclosure is permitted or restricted in any way by applicable law or regulation and the requester's source of authority to make the request and receive the requested information;

(vii) The reason why the requesting person cannot obtain suitable and needed information from any other source (and in the case of a request for trial testimony, the reason why a deposition will not suffice);

(viii) A commitment to obtain an enforceable protective order including, if applicable, a judicial sealing order, acceptable to the Board from the appropriate tribunal preserving the confidentiality of any information that is provided;

(ix) A statement of all reasonably foreseeable requests or demands for



Board information the party will make during the course of the litigation;

(x) A statement identifying all previous requests or demands for such information or similar information made by the requester to the Board or any other Federal or state agency, and the disposition of each such request; and

(xi) A statement addressing any issue that may bear upon the question of waiver of privilege by the Board.

(2) *All other requests.* Any other person (including any financial institutions supervised and regulated by the Board, but excluding agencies referred to in §§ 261.11 and 261.12, seeking access to exempt information for any other purpose may file a written request with the General Counsel of the Board. The request shall describe the purpose for which such disclosure is sought.

(3) *Notice to supervised financial institution.* Following receipt of a request for exempt information, the Board generally will notify the supervised financial institution that is the subject of the requested information, unless the Board, in its discretion, determines that to do so would unjustly advantage or would prejudice any of the parties in the matter at issue.

(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 exempt information that outweighs the need to maintain confidentiality;

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

(iii) Approval would not be otherwise inappropriate or contrary to the public interest;

(iv) The requester has made a commitment to pay the costs of production by the Board and/or any Federal Reserve Bank(s) which is deemed satisfactory in the circumstances.

(2) *Factors taken into consideration by the General Counsel.* In determining whether to approve a request for confidential supervisory information under paragraph (c)(1) of this section, the General Counsel shall consider without limitation:

(i) The relevance of the evidence sought to be protected;

(ii) The availability of other evidence;

(iii) The "seriousness" of the litigation and the issues involved;

(iv) The role of the Board in the litigation; and

(v) The possibility that Board employees may be reluctant to be candid for fear that their supervisory opinions and communications may be made available to persons outside of the Board or to persons not involved in the bank supervision and regulation process.

(3) *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 the General Counsel deems necessary to protect the confidentiality of the Board's information.

(4) *Request for opinion or expert testimony.* The General Counsel will not normally authorize opinion or expert testimony by persons based on information of the Board acquired in the scope and performance of their official duties with the Board or any Federal Reserve Bank, except on behalf of the United States or a party represented by the Department of Justice.

(d) *Exhaustion of administrative remedies for discovery purposes in civil, criminal, or administrative action.* Action by the General Counsel of the Board on a request under this section shall be required to exhaust administrative remedies for discovery purposes in any administrative, civil or criminal proceeding. A request made pursuant to § 261.9 does not exhaust administrative remedies for discovery purposes. Therefore, it is not necessary to file a request pursuant to § 261.9 to exhaust administrative remedies under this section.

(e) *Other disclosure prohibited.* All exempt information made available under this section shall remain the property of the Board. Any person in possession of such information under this section or any provision of subpart C of this part, including any banking organization supervised and regulated by the Board, shall not use or disclose such information for any purpose other than that authorized in writing by the General Counsel of the Board.

11. Section 261.17 is amended by revising paragraphs (a)(1) introductory text, (b) introductory text, and (b)(3) to read as follows:

**§ 261.17 Confidential commercial or financial information.**

(a) \* \* \* (1) The Secretary shall notify a submitter of any request made pursuant to the Freedom of Information Act under § 261.9 and 5 U.S.C. 552, for access to all or a portion of information provided to the Board by the submitter, if:

\* \* \* \* \*

(b) \* \* \* The notice given to the submitter upon a request for confidential information pursuant to paragraph (a) of this section shall:

\* \* \* \* \*

(3) Give the submitter a reasonable opportunity, not to exceed ten working days from the date of oral notice or, if no oral notice is given, ten working days from the date of written notice, to submit written objections to disclosure of the information; and

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, February 21, 1996.  
William W. Wiles,

*Secretary of the Board.*

[FR Doc. 96-4341 Filed 2-27-96; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 95-NM-161-AD]

**Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes, Excluding Model A300-600 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 B2 and B4 series airplanes. This proposal would require measurements of the thickness of the inner skin of the longitudinal lap joint from the inside of the fuselage at certain stringers. The proposed AD would also require inspections to detect stress corrosion cracking in the subject area, and repair, if necessary. This proposal is prompted by reports of corrosion cracking found in the skin at the longitudinal lap joint at certain stringers of the fuselage, which was caused by the increased stress level in the subject area when it was reworked beyond certain limits. The actions specified by the proposed AD are intended to prevent such stress corrosion cracking which, if not detected and corrected in a timely manner, could result in rapid depressurization of the airplane.

**DATES:** Comments must be received by April 8, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport