

**TIME AND DATE:** 11:00 a.m., Monday, April 21, 1997.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassessments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:**

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 11, 1997.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 97-9889 Filed 4-11-97; 4:15 pm]

BILLING CODE 6210-01-P

## FEDERAL TRADE COMMISSION

### Notice of Policy of Disclosing Investigations of Announced Mergers

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice of revised policy.

**SUMMARY:** The Federal Trade Commission is revising its policy concerning disclosure of investigations. The Commission's policy is to conduct its investigations on a nonpublic basis. In the past, the Commission has established some narrow exceptions to that policy. The Commission is now establishing an additional exception for circumstances in which a party to a merger or other transaction has publicly disclosed the existence of a transaction or proposed transaction in a press release or in a public filing with a government body. In those limited circumstances, the Commission authorizes public disclosure of whether the agency is investigating the transaction or proposal under Section 7 and 11 of the Clayton Act. Inquiries seeking disclosure under this authority should be addressed to the Commission's Office of Public Affairs.

This change of policy will more closely conform the Commission's practice in such matters with that of the Antitrust Division of the Department of Justice. The change of policy does not

alter the Commission's confidentiality policies or practices with respect to documents and information submitted to or developed by the agency in connection with such investigations, or with respect to information concerning the course of such investigations. The change of policy also does not affect the Commission's confidentiality policies or practices regarding any other type of investigations.

**EFFECTIVE DATE:** April 16, 1997.

**FOR FURTHER INFORMATION CONTACT:** Victoria A. Streitfeld, Office of Public Affairs, 202-326-2718, or Stephen Calkins, General Counsel, 202-326-2481.

**SUPPLEMENTARY INFORMATION:** The Commission's policy is to hold confidential the existence and targets of law enforcement investigations, until either the Commission issues or authorizes a complaint or the matter is closed. See 42 FR 64135, Dec. 22, 1977. The Commission believes generally that public disclosure of pending investigations and identification of targets before the Commission has had an opportunity to weight the evidence may unjustifiably harm the companies investigated and interfere with the conduct and successful resolution of such matters. The laws applicable to the Commission do not, however, require confidential treatment of the existence of investigations, and the Commission's policy has long included narrow exceptions for disclosure of "industrywide investigation" (where particular targets are not identified), and of particular investigations that involve significant risk of economic harm or risk of public health or safety.

The Commission is now establishing a further exception, permitting disclosure of whether the agency is investigating a proposed or consummated merger or other transaction under Sections 7 and 11 of the Clayton Act, 15 U.S.C. 18, 21, where a party to the transaction has issued a press release or made a public filing with the governmental body that discloses the existence of the transaction. The Commission considers the concerns underlying the general policy of nondisclosure to have little application in these instances. Furthermore, while the Hart-Scott-Rodino ("HSR") Act prohibits the Commission from making public (except in specified circumstances) "information or documentary material filed with the . . . Commission pursuant to" that Act, 15 U.S.C. 18a(h), nothing in the HSR Act prevents the Commission from publicly disclosing information that has already been made

available to the public by a party, even if that information is also included in an HSR filing. Accordingly, where a party has issued a press release or made a public filing with a government body that discloses the existence of a transaction or proposed transaction, the Commission authorizes public disclosure of whether the agency is investigating the matter. This approach confirms closely with that of the Antitrust Division of the Department of Justice, with which the Commission shares enforcement of the Clayton Act.

Regardless of whether a transaction or proposed transaction is reported by the media, however, the agency will disclose an investigation under this authority only after the Office of Public Affairs (or another designated office) has confirmed that a party has in fact disclosed the existence of the transaction or proposal in the manner stated. Inquiries seeking disclosure under this authority should be addressed to the Office of Public Affairs.

The Commission is not changing its treatment of any other information relating to mergers or similar transactions. Thus, the authority granted here to disclose the existence of certain investigations does not include authority to disclosure any details about those investigations. In particular, because the Commission considers the HSR Act to restrict disclosure of whether a party to proposed transaction has filed a notification under that Act, the agency will not, except as permitted by that law, reveal whether a filing under HSR has been made. The Commission will continue to keep confidential, as appropriate under its existing laws and policies, documents and information submitted pursuant to the HSR Act to relating to an investigation under that Act. The policy revision also does not affect the confidentiality treatment of other types of investigation under the Commission's antitrust or consumer protection authority.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

### Statement of Commissioner Mary L. Azcuenaga; Concurring in Part and Dissenting in Part on Decision To Authorize Public Disclosure of Certain Merger Investigations

The policy the Commission announces today in most, perhaps all, respects comports with common sense and is long overdue. The policy enables the Commission to confirm certain otherwise nonpublic information after it has been confirmed (reliably, as defined

in the policy) by third parties. The policy also enables the commission to confirm certain nonpublic information that has not been confirmed by third parties. Under the new policy, the Commission will confirm the fact that it is investigating a transaction after the transaction itself has been made public and regardless of whether the fact of the investigation has been made public by third parties.

The Commission long has followed a policy of declining to confirm the existence of its investigations until it issues or authorizes filing of a complaint, or until the matter is closed.<sup>1</sup> This policy is based on the premise that public disclosure of pending investigations and identification of targets can interfere with the conduct and successful resolution of such matters.<sup>2</sup> The Commission concluded in the 1977 Policy Statement that "disclosure of the identities of businesses under investigation would cause those businesses severe economic injury even before the Commission determines whether there is reason to believe the law has been violated."

I have been informed that the business community will have no objection to having the Commission confirm the fact that it is investigating a transaction even if the parties have not confirmed the fact of the investigation. I do not know the basis for this information. Assuming the information is correct, I support the new policy in its entity because the policy presumably would not result in the harm the Commission identified in 1977.<sup>3</sup> Nevertheless, I would have preferred to seek comment on this aspect of the new policy before adopting it. Good reasons support the Commission's long standing policy not to confirm or deny the existence of a nonpublic investigation, and the Commission has been able to live with that policy for many years. It

<sup>1</sup> In 1977, the Commission reaffirmed its then-current policy of maintaining the confidentiality of most nonpublic investigations. See FTC Policy statement, 42 Fed. Reg. 64,135 (Dec. 22, 1977) ("1977 Policy Statement"). This Policy Statement sets forth exceptions for industrywide investigations and investigations involving "significant risk of economic harm or risk to public health or safety." In addition, certain investigations may become public by operation of law or the Commission's Rules, for example, on filing of a petition to quash compulsory process, 16 C.F.R. § 4.9(b)(4), on filing of an application for clearance, 16 C.F.R. § 4.9(i)(ii), or on publication in the **Federal Register** of a notice of early termination under the Clayton Act, 15 U.S.C. § 18a(b)(2).

<sup>2</sup> *Id.* See also Exemption 7A to the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. § 552(b)(7)(A); and Exemption 7A to the open meeting requirements of the Government in the Sunshine Act, 5 U.S.C. § 552b(c)(7)(A).

<sup>3</sup> See note 1.

seems appropriate and not unduly burdensome for the Commission to seek public comment on this aspect of the proposal for thirty days before adopting it. To the extent that the Commission has chosen not to seek public comment, I dissent.

[FR Doc. 97-9820 Filed 4-15-97; 8:45 am]

BILLING CODE 6750-01-M

## GENERAL SERVICES ADMINISTRATION

### Federal Acquisition Policy Division, FAR Secretariat; Cancellation of Standard Forms

AGENCY: General Services Administration.

ACTION: Notice.

**SUMMARY:** Since 48 CFR 52.215-41 and 42 give agencies more flexible procedures in requesting exceptions for submitting certified cost and pricing data, the following Standard Forms are canceled:

SF 1412, Request For Exemption From Submission Of Certified Cost Or Pricing Data.

SF 1412A, Request For Exemption From Submission Of Certified Cost Or Pricing Data—Continuation.

DATES: Effective April 16, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501-0581.

Dated: March 19, 1997.

**Barbara M. Williams,**  
*Deputy Standard and Optional Forms Management Officer.*

[FR Doc. 97-9754 Filed 4-15-97; 8:45 am]

BILLING CODE 6820-34-M

## GENERAL SERVICES ADMINISTRATION

### Interagency Committee for Medical Records (ICMR); Revision of SF 93, Medical Record—Report of Medical History

AGENCY: General Services Administration.

ACTION: Notice.

**SUMMARY:** The General Services Administration/ICMR is revising the SF 93, Medical Record—Report of Medical History to update the information collected on the patient. You can obtain the updated form in three ways:

From the "U.S. Government Management Policy CD-ROM";

On the internet. Address: <http://www.gsa.gov/forms>, or;

Through the Federal Supply Service using National Stock Number 7540-00-181-8368 (revision 6-96).

**FOR FURTHER INFORMATION CONTACT:**  
Ms. Barbara Williams, General Services Administration, (202) 501-0581.

**DATES:** Effective April 16, 1997.

Dated: March 20, 1997.

**Barbara M. Williams,**  
*Deputy Standard and Optional Forms Management Officer.*

[FR Doc. 97-9753 Filed 4-15-97; 8:45 am]

BILLING CODE 6820-34-M

## GENERAL SERVICES ADMINISTRATION

### Real Estate Management; Cancellation of a Standard Form

AGENCY: Public Building Service, General Services Administration.

ACTION: Notice.

**SUMMARY:** This notice announces the General Services Administration's intent to cancel the following Standard form because of low user demand: SF 2B, U.S. Government Lease for Real Property (Short Form).

This form was replaced with GSA Form 3626, U.S. Government Lease for Real Property (Short Form). You can get copies of this form from the contact person mentioned below or from the following internet address: <http://www.gsa.gov/pbs/pe/standcla/standcla.htm>.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Roberts, Real Estate Management Division, Office of Property Acquisition and Realty Services, (202) 501-0407.

**DATES:** Effective April 16, 1997.

Dated: March 7, 1997.

**Theodore D. Freed,**  
*Standard and Optional Forms Management Officer.*

[FR Doc. 97-9755 Filed 4-15-97; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

**Manoj Misra, Ph.D., Dartmouth College:** Based upon the Office of Research Integrity's (ORI) review of a report forwarded to ORI by Dartmouth