This interim rule reflects changes to the Board’s Rules Regarding Availability of Information (“Board’s Rules”) required by the FOIA Improvement Act of 2016 (the “Improvement Act”). The Improvement Act addresses a range of procedural issues, including requirements that agencies establish a minimum of 90 days for requesters to file an administrative appeal and that they provide dispute resolution services at various times throughout the FOIA process. Accordingly, the Board is adopting this interim final rule to comply with the statutory requirements of the Improvement Act.

II. Description of the Final Rule

This interim final rule makes conforming amendments throughout part 261 of the Board’s Rules to adopt the statutory exemptions and exceptions required by the Improvement Act. It also explains general policies and procedures for requesters seeking access to records and for processing requests by the Board’s Freedom of Information Office.

Section 261.10—Published information. The Improvement Act requires agencies to make certain records available in an electronic format. Thus, we are amending this section to include language that the Index to Board Actions will be maintained in an electronic format. In addition, we are removing the reference to the pedestrian entrance for

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protected by an exemption described in the section, as required by the Improvement Act.

Section 261.17—Fee schedules; waiver of fees. We are amending this section to provide restrictions on the Board’s ability to charge fees as required by the Improvement Act.

The Board notes that the Improvement Act provides federal agencies with no discretion in the implementation of the rule, and requires that conforming amendments to agency-specific rules become effective within 180 days of the Act’s enactment. Accordingly, this interim rule is final and effective on December 27, 2016. The Board is providing an opportunity for comment and will address any comments received in a subsequent rulemaking.

III. Administrative Law Matters

Administrative Procedure Act

This rule is not subject to the provisions of the Administrative Procedure Act (“APA”), 5 U.S.C. 553, requiring notice, public participation, and deferred effective date. The FOIA Improvement Act of 2016 provides federal agencies with no discretion in the implementation of the substantive amendments made in this rule, and it also requires that conforming amendments to agency-specific rules become effective as of December 27, 2016. For these reasons, the Board finds good cause to determine that public notice and comment for these amendments is unnecessary, impracticable, or contrary to the public interest, pursuant to the APA, 5 U.S.C. 553(b)(B), and that good cause exists to dispense with a deferred effective date pursuant to 5 U.S.C. 553(d)(3). The Board is providing, however, an opportunity for comment and will address any comments received in the final rule that adopts the interim rule as final.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., applies only to rules for which an agency publishes a general notice of proposed rulemaking. Because the Board has determined that good cause that a notice of proposed rulemaking for this rule is unnecessary, the Regulatory Flexibility Act does not apply to this final rule.

Paperwork Reduction Act Analysis

There is no collection of information required by this interim final rule that would be subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires each federal banking agency to use plain language in all rules published after January 1, 2000. In light of this requirement, the Board believes this interim rule is presented in a simple and straightforward manner and is consistent with this “plain language” directive.

List of Subjects in 12 CFR Part 261

Administrative practice and procedure, Confidential business information, Freedom of information, Reporting and recordkeeping requirements.

For the reasons set forth in the SUPPLEMENTARY INFORMATION, the Board of Governors of the Federal Reserve System amends 12 CFR chapter II as follows:

PART 261—RULES REGARDING AVAILABILITY OF INFORMATION

§ 261.10 Published information.

1. The authority citation for part 261 continues to read as follows:


2. In § 261.10 paragraphs (e) and (f) are revised to read as follows:

§ 261.10 Published information.

* * * * *

(e) Index to Board actions. The Board’s Freedom of Information Office maintains, in electronic format, an index to Board actions, which is updated weekly and provides identifying information about any matters issued, adopted, and promulgated by the Board since July 4, 1967. Copies of the index may be obtained upon request to the Freedom of Information Office subject to the current schedule of fees in § 261.17.

(f) Obtaining Board publications. The Publications Services Section maintains a list of Board publications that are available to the public. In addition, a partial list of publications is published in the Federal Reserve Bulletin. All publications issued by the Board, including available back issues, may be obtained from Publications Services, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Subscription or other charges may apply to some publications.

§ 261.11 Records available for public inspection.

(a) Types of records made available. Unless they were published promptly and made available for sale or without charge, the following records shall be made available for inspection in an electronic format:

* * * * *

(ii) That have been released to any person under § 261.12; and

(b) That have been requested three or more times;

* * * * *

§ 261.12 Records available to public upon request.

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(b) Information available under this section is available for inspection and copying, from 9:00 a.m. to 5:00 p.m. weekdays, at the Freedom of Information Office of the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. * * * * *

(c) Privacy protection. The Board may delete identifying details from any record to prevent a clearly unwarranted invasion of personal privacy.

§ 261.13 Processing requests.

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5. In § 261.13, paragraphs (e)(3), (f)(4), (f)(5), (i) introductory text, (i)(1), and (i)(3) are revised to read as follows:

§ 261.13 Processing requests.

* * * * *

(e) In unusual circumstances, as defined in 5 U.S.C. 552(a)(6)(B), the Board may:
(i) Extend the 20-day time limit for a period of time not to exceed 10 working days, where the Board has provided written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be dispatched; and
(ii) Extend the 20-day time limit for a period of more than 10 working days where the Board has provided the requester with an opportunity to modify the scope of the FOIA request so that it can be processed within that time frame or with an opportunity to arrange an alternative time frame for processing the original request or a modified request, and has notified the requester that the Board’s FOIA Public Liaison is available to assist the requester for this purpose and in the resolution of any disputes between the requester and the Board and of the requester’s right to seek dispute resolution services from the Office of Government Information Services.

6. In §261.14, paragraph (a) introductory text is revised to read as follows:

§261.14 Exemptions from disclosure.
(a) Types of records exempt from disclosure. Pursuant to 5 U.S.C. 552(b), the following records of the Board are exempt from disclosure under this part. The Board shall withhold records or information only when it reasonably foresees that disclosure would harm an interest protected by an exemption described in this paragraph 261.14(a) or when disclosure is prohibited by law. In applying the exemption in subparagraph (a)(5) of this section, the Board will not withhold records based on the deliberative process privilege if the records were created 25 years or more before the date on which the records were requested.

7. In §261.17, paragraph (i) is added to read as follows:

§261.17 Fee schedules; waiver of fees.

(i) Restrictions on charging fees. (1) If the Board fails to comply with the FOIA’s time limits in which to respond to a request, the Board may not charge search fees, or, in the instances of requests from requesters described in paragraph (c)(2) of this section, may charge duplication fees.

3. If the Board determines that unusual circumstances exist, as described in 5 U.S.C. 552(a)(6)(B), and more than 5,000 pages are necessary to respond to the request, then the Board may charge search fees, or in the case of requesters described in paragraph (c)(2) of this section, may charge duplication fees, if the Board has:
(i) Provided timely written notice to the requester in accordance with the FOIA; and
(ii) Discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii).

4. If a court has determined that exceptional circumstances exist, as defined by the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order.


Robert deV. Frierson,
Secretary of the Board.

[FR Doc. 2016–30670 Filed 12–23–16; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 271

Rules Regarding Availability of Information

AGENCY: Federal Open Market Committee, Federal Reserve System.

ACTION: Interim final rule.

SUMMARY: The Federal Open Market Committee (Committee) invites comments on this interim final rule amending its Rules Regarding Availability of Information (Rules). These revisions conform to recent statutory amendments to the Freedom of Information Act (FOIA) made by the FOIA Improvement Act of 2016 (FOIA Improvement Act), as well as other technical changes intended to clarify existing procedures for requesting information and updating contact information.

DATES: This interim final rule is effective on December 27, 2016. Comments shall be received on or before February 27, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this interim final rule, identified by “Federal Reserve System: Federal Open Market Committee 12 CFR Part 271,” by any of the following methods: