

§ 261.15

12 CFR Ch. II (1–1–23 Edition)

of the adverse determination come to the attention of the Board.

§ 261.15 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:

(1) Any information that is specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and is in fact properly classified pursuant to the executive order.

(2) Any information related solely to the internal personnel rules and practices of the Board.

(3) Any information specifically exempted from disclosure by statute to the extent required by 5 U.S.C. 552(b)(3).

(4) Any matter that is a trade secret or that constitutes commercial or financial information obtained from a person and that is privileged or confidential.

(5) Inter- or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the Board, provided that the deliberative process privilege shall not apply to records that were created 25 years or more before the date on which the records were requested.

(6) Any information contained in personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Any records or information compiled for law enforcement purposes, to the extent permitted under 5 U.S.C. 552(b)(7).

(8) Any matter that is contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, including a State financial institution supervisory agency.

(b) *Release of nonpublic information.*

(1) The Board may make any nonpublic information furnished in connection with an application for Board approval of a transaction available to the public in response to a request in accordance

with § 261.11, and may, without prior notice and to the extent it deems necessary, comment on such information in any opinion or statement issued to the public in connection with a Board action to which such information pertains.

(2) The fact that the Board has determined to release particular nonpublic information does not waive the Board's ability to withhold similar nonpublic information in response to the same or a different request.

(3) Except where disclosure is expressly prohibited by statute, regulation, or order, the Board may release records that are exempt from mandatory disclosure whenever the Board or designated Board members, the Secretary, or the General Counsel determines that such disclosure would be in the public interest. The Board will provide predisclosure notice to submitters of confidential information in accordance with § 261.18(b)(1). Confidential supervisory information may only be released as set forth in subpart C.

(c) *Delayed release.* Except as required by law, publication in the FEDERAL REGISTER or availability to the public of certain information may be delayed if immediate disclosure would likely:

(1) Interfere with accomplishing the objectives of the Board in the discharge of its statutory functions;

(2) Interfere with the orderly conduct of the foreign affairs of the United States;

(3) Permit speculators or others to gain unfair profits or other unfair advantages by speculative trading in securities or otherwise;

(4) Result in unnecessary or unwarranted disturbances in the securities markets;

(5) Interfere with the orderly execution of the objectives or policies of other government agencies; or

(6) Impair the ability to negotiate any contract or otherwise harm the commercial or financial interest of the United States, the Board, any Reserve Bank, or any department or agency of the United States.

§ 261.16 Fee schedules; waiver of fees.

(a) *Fee schedules.* Consistent with the limitations set forth in 5 U.S.C. 552(a)(4)(A)(viii), the fees applicable to