

§ 261.20

12 CFR Ch. II (1–1–24 Edition)

Board to compel disclosure of such information.

Subpart C—Nonpublic Information Made Available to Supervised Financial Institutions, Governmental Agencies, and Others in Certain Circumstances

§ 261.20 General.

(a) All confidential supervisory information and other nonpublic information, including but not limited to information made available under this subpart, remains the property of the Board, and except as otherwise provided in this regulation, no person, entity, agency, or authority to whom the information is made available or who otherwise possesses the information, including any officer, director, employee, or agent thereof, may use any such information for an unauthorized purpose or disclose any such information without the prior written permission of the General Counsel.

(b) The disclosure of confidential supervisory information or other nonpublic information in accordance with this subpart shall not constitute a waiver by the Board of any applicable privileges.

(c) Nothing in this subpart shall be construed to limit or restrict the authority of the Board to impose any additional conditions or limitations on the use and disclosure of confidential supervisory information or other nonpublic information. Further, nothing in this subpart shall be construed to limit or restrict the authority of the Board to make discretionary disclosures of confidential supervisory information or other nonpublic information in addition to the disclosures expressly provided for in this subpart.

§ 261.21 Confidential supervisory information made available to supervised financial institutions.

(a) *Disclosure of confidential supervisory information to supervised financial institutions.* The Board or the appropriate Reserve Bank may disclose confidential supervisory information concerning a supervised financial institution to that supervised financial institution.

(b) *Disclosure of confidential supervisory information by supervised financial institutions—(1) General.* Any supervised financial institution lawfully in possession of confidential supervisory information pursuant to this section may when necessary or appropriate for business purposes disclose such information to its directors, officers, or employees, and to the directors, officers, or employees of its affiliates.

(2) *Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Bureau of Consumer Financial Protection, and State financial supervisory agencies.* Any supervised financial institution may, with the concurrence of the institution’s central point of contact at the Reserve Bank, equivalent supervisory team leader, or other designated Reserve Bank employee (hereinafter, “Reserve Bank Point of Contact” or “Reserve Bank POC”), disclose confidential supervisory information about the institution that is contained in documents prepared by or for the institution for its own business purposes to the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Bureau of Consumer Financial Protection, and the State financial supervisory agency that supervises that institution when the Reserve Bank POC determines that the receiving agency has a legitimate supervisory or regulatory interest in the information. A Reserve Bank POC’s action under this paragraph may require concurrence of other Federal Reserve staff in accordance with internal supervisory procedures. Requests to disclose any other confidential supervisory information to these or other agencies should be directed to the General Counsel under § 261.22(c) or § 261.23(c).

(3) *Legal counsel and auditors.* When necessary or appropriate in connection with the provision of legal or auditing services to the supervised financial institution, the supervised financial institution may disclose confidential supervisory information to its legal counsel or auditors. The supervised financial institution may also disclose confidential supervisory information to service providers (such as consultants, contractors, contingent workers, and

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technology providers) of its legal counsel or auditors if the service provider is under a written agreement with the legal counsel or auditor in which the service provider agrees that:

(i) It will treat the confidential supervisory information in accordance with § 261.20(a); and

(ii) It will not use the confidential supervisory information for any purpose other than as necessary to provide the services to the supervised financial institution.

(4) *Other service providers.* (i) A supervised financial institution may disclose confidential supervisory information to other service providers engaged by the supervised financial institution if the service provider is under a written contract to provide services to the institution, the disclosure of the confidential supervisory information is deemed necessary to the service provider's provision of services, and the service provider has a written agreement with the institution in which the service provider has agreed that:

(A) It will treat the confidential supervisory information in accordance with § 261.20(a); and

(B) It will not use the confidential supervisory information for any purpose other than as provided under its contract to provide services to the supervised financial institution.

(ii) A supervised financial institution shall maintain a written account of the disclosures of confidential supervisory information that the supervised financial institution makes to service providers under this section and provide the Board or Reserve Bank with a copy of such written account upon the Board's or Reserve Bank's request.

§ 261.22 Nonpublic information made available by the Board to governmental agencies and entities exercising governmental authority.

(a) *Disclosure to Federal and State financial institution supervisory agencies.* The Director of the Division of Supervision and Regulation, the Director of the Division of Consumer and Community Affairs, the General Counsel, or the appropriate Reserve Bank may, for legitimate supervisory or regulatory purposes and with or without a request, disclose confidential supervisory infor-

mation and other nonpublic information to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Bureau of Consumer Financial Protection, and a State financial institution supervisory agency.

(b) *Disclosures pursuant to the Equal Credit Opportunity Act, the Fair Housing Act, and the Employee Retirement Income Security Act.* The Director of the Division of Supervision and Regulation, the Director of the Division of Consumer and Community Affairs, or the General Counsel may disclose confidential supervisory information and other nonpublic information concerning a supervised financial institution to:

(1) The Attorney General or to the Secretary of the Department of Housing and Urban Development related to the enforcement of the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*) or the Fair Housing Act (42 U.S.C. 3601 *et seq.*); and

(2) The Secretary of the Department of Labor and the Secretary of the Department of the Treasury in accordance with section 3004(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1204(b)).

(c) *Disclosure to other governmental agencies and entities exercising governmental authority.* Except as provided in paragraph (d) or (e) of this section, other Federal, State, and local agencies, including law enforcement agencies, and other entities exercising governmental authority, may file written requests with the Board for access to confidential supervisory information and other nonpublic information under this section, including information in the form of testimony and interviews from current or former Federal Reserve System staff. Properly accredited foreign law enforcement agencies and other foreign government agencies may also file written requests with the Board in accordance with this paragraph, except that provision of confidential supervisory information to foreign bank regulatory or supervisory authorities is governed by 12 CFR 211.27.

(1) *Contents of request.* To obtain access to confidential supervisory information or other nonpublic information