

## § 261.24

file a request pursuant to § 261.11 to exhaust administrative remedies under this section.

### § 261.24 Subpoenas, orders compelling production, and other process.

(a) *Advice by person served.* Any person (including any officer, employee, or agent of the Board or any Reserve Bank) who is served with a subpoena, order, or other judicial or administrative process requiring the production of confidential supervisory information or other nonpublic information of the Board or requiring the person's testimony regarding such Board information in any proceeding, shall:

(1) Promptly inform the Board's General Counsel of the service and all relevant facts, including the documents, information or testimony demanded, and any facts relevant to the Board in determining whether the material requested should be made available;

(2) Inform the entity issuing the process of the substance of these rules and, in particular, of the obligation to follow the request procedures in § 261.23(b); and

(3) At the appropriate time inform the court or tribunal that issued the process of the substance of these rules.

(b) *Appearance by person served.* Unless authorized by the Board or as ordered by a Federal court in a judicial proceeding in which the Board has had the opportunity to appear and oppose discovery, any person who is required to respond to a subpoena or other legal process concerning Board confidential supervisory information or other nonpublic Board information shall attend at the time and place required and respectfully decline to disclose or to give any testimony with respect to the information, basing such refusal upon the provisions of this regulation. If the court or other body orders the disclosure of the information or the giving of testimony, the person having the information shall continue to decline to disclose the information and shall promptly report the facts to the Board for such action as the Board may deem appropriate.

(c) *Civil requests for production.* A litigant or non-party who is served with a civil request for production of documents calling for production of con-

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fidential supervisory information should proceed under § 261.23 rather than this section.

## PART 261a—RULES REGARDING ACCESS TO PERSONAL INFORMATION UNDER THE PRIVACY ACT 1974

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AUTHORITY: 5 U.S.C. 552a.

SOURCE: 75 FR 63704, Oct. 18, 2010, unless otherwise noted.

### Subpart A—General Provisions

#### § 261a.1 Authority, purpose and scope.

(a) *Authority.* This part is issued by the Board of Governors of the Federal Reserve System (the Board) pursuant to the Privacy Act of 1974 (5 U.S.C. 552a).

(b) *Purpose and scope.* This part implements the provisions of the Privacy Act of 1974 with regard to the maintenance, protection, disclosure, and amendment of records contained within systems of records maintained by the Board. It sets forth the procedures for requests for access to, or amendment of, records concerning individuals that are contained in systems of records maintained by the Board.

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### § 261a.2 Definitions.

For purposes of this part, the following definitions apply:

(a) *Business day* means any day except Saturday, Sunday or a legal Federal holiday.

(b) *Guardian* means the parent of a minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction.

(c) *Individual* means a natural person who is either a citizen of the United States or an alien lawfully admitted for permanent residence.

(d) *Maintain* includes maintain, collect, use, or disseminate.

(e) *Record* means any item, collection, or grouping of information about an individual maintained by the Board that contains the individual's name or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voice print, or photograph.

(f) *Routine use* means, with respect to disclosure of a record, the use of such record for a purpose that is compatible with the purpose for which it was collected or created.

(g) *System of records* means a group of any records under the control of the Board from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(h) *You* means an individual making a request under the Privacy Act.

(i) *We* means the Board.

### § 261a.3 Custodian of records; delegations of authority.

(a) *Custodian of records*. The Secretary of the Board is the official custodian of all Board records.

(b) *Delegated authority of the Secretary*. The Secretary of the Board is authorized to—

(1) Respond to requests for access to, accounting of, or amendment of records contained in a system of records, except for requests regarding systems of records maintained by the Board's Office of Inspector General (OIG);

(2) Approve the publication of new systems of records and amend existing

systems of records, except those systems of records exempted pursuant to § 261a.12(b), (c) and (d); and

(3) File any necessary reports related to the Privacy Act.

(c) *Delegated authority of designee*. Any action or determination required or permitted by this part to be done by the Secretary of the Board may be done by a Deputy or Associate Secretary or other responsible employee of the Board who has been duly designated for this purpose by the Secretary.

(d) *Delegated authority of Inspector General*. The Inspector General is authorized to respond to requests for access to, accounting of, or amendment of records contained in a system of records maintained by the OIG.

### § 261a.4 Fees.

(a) *Copies of records*. We will provide you with copies of the records you request under § 261a.5 of this part at the same cost we charge for duplication of records and/or production of computer output under the Board's Rules Regarding Availability of Information, 12 CFR Part 261.

(b) *No fee*. We will not charge you a fee if:

(1) Your total charges are less than \$5, or

(2) You are a Board employee or former employee, or an applicant for employment with the Board, and you request records pertaining to you.

## Subpart B—Procedures for Requests by Individuals to Whom Record Pertains

### § 261a.5 Request for access to records.

(a) *Procedures for making request*. (1) Except as provided in paragraph (a)(2) or (f) of this section, if you (or your guardian) want to learn of the existence of, or to gain access to, your record in a system of records, you may submit a request in writing to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

(2) If you request information contained in a system of records maintained by the Board's OIG, you may

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submit the request in writing to the Inspector General, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

(b) *Contents of request.* Except for requests made under paragraph (f) of this section, your written request must include—

(1) A statement that the request is made pursuant to the Privacy Act of 1974;

(2) The name of the system of records you believe contains the record you request, or a concise description of that system of records;

(3) Information necessary to verify your identity pursuant to paragraph (c) of this section; and

(4) Any other information that might assist us in identifying the record you seek (*e.g.*, maiden name, dates of employment, *etc.*).

(c) *Verification of identity.* We will require proof of your identity, and we reserve the right to determine whether the proof you submit is adequate. In general, we will consider the following to be adequate proof of identity:

(1) If you are a current or former Board employee, your Board identification card; or

(2) If you are not a current or former Board employee, either

(i) Two forms of identification, including one photo identification, or

(ii) A notarized statement attesting to your identity.

(d) *Verification of identity not required.* We will not require verification of identity when the records you seek are available to any person under the Freedom of Information Act (5 U.S.C. 552).

(e) *Request for accounting of previous disclosures.* You may request an accounting of previous disclosures of records pertaining to you in a system of records as provided in 5 U.S.C. 552a(c).

(f) *Requests Made by Board Employees.* Unless the Secretary provides and you are notified otherwise, if you are a current or former Board employee, you also may request access to your record in a system of records by appearing in person before or writing directly to the Board office that maintains the record.

### § 261a.6 Board procedures for responding to request for access.

(a) *Compliance with Freedom of Information Act.* We will handle every request made pursuant to § 261a.5 of this part (other than requests submitted under § 261a.5(f) that were granted) as a request for information pursuant to the Freedom of Information Act. The time limits set forth in paragraph (b) of this section and the fees specified in § 261a.4 of this part will apply to such requests.

(b) *Time for response.* We will acknowledge every request made pursuant to § 261a.5 of this part within 20 business days from receipt of the request and will, where practicable, respond to each request within that 20-day period. When a full response is not practicable within the 20-day period, we will respond as promptly as possible.

(c) *Disclosure.* (1) When we disclose information in response to your request, except for information maintained by the Board's OIG, we will make the information available for inspection and copying during regular business hours at the Board's Freedom of Information Office, or we will mail it to you on your request. For requests made under paragraph § 261a.5(f), you may request that the information be provided orally or in person.

(2) When the information to be disclosed is maintained by the Board's OIG, the OIG will make the information available for inspection and copying or will mail it to you on request.

(3) You may bring with you anyone you choose to see the requested material. All visitors to the Board's buildings must comply with the Board's security procedures.

(d) *Denial of request.* If we deny a request made pursuant to § 261a.5 of this part, we will tell you the reason(s) for denial and the procedures for appealing the denial. If a request made under paragraph § 261a.5(f) is denied, in whole or in part, the Board office that denied your request will simultaneously notify the Secretary of the Board of its action.

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### §261a.7 Special procedures for medical records.

If you request medical or psychological records pursuant to §261a.5, we will disclose them directly to you unless the Chief Privacy Officer, in consultation with the Board's physician or Employee Assistance Program counselor, determines that such disclosure could have an adverse effect on you. If the Chief Privacy Officer makes that determination, we will provide the information to a licensed physician or other appropriate representative that you designate, who may disclose those records to you in a manner he or she deems appropriate.

### §261a.8 Request for amendment of record.

(a) *Procedures for making request.* (1) If you wish to amend a record that pertains to you in a system of records, you may submit the request in writing to the Secretary of the Board (or to the Inspector General for records in a system of records maintained by the OIG) in an envelope clearly marked "Privacy Act Amendment Request."

(2) Your request for amendment of a record must—

(i) Identify the system of records containing the record for which amendment is requested;

(ii) Specify the portion of that record requested to be amended; and

(iii) Describe the nature of and reasons for each requested amendment.

(3) We will require you to verify your identity under the procedures set forth in §261a.5(c) of this part, unless you have already done so in a related request for access or amendment.

(b) *Burden of proof.* Your request for amendment of a record must tell us why you believe the record is not accurate, relevant, timely, or complete. You have the burden of proof for demonstrating the appropriateness of the requested amendment, and you must provide relevant and convincing evidence in support of your request.

### §261a.9 Board review of request for amendment of record.

(a) *Time limits.* We will acknowledge your request for amendment of your record within 10 business days after we receive your request. In the acknowl-

edgment, we may request additional information necessary for a determination on the request for amendment. We will make a determination on a request to amend a record promptly.

(b) *Contents of response to request for amendment.* When we respond to a request for amendment, we will tell you whether your request is granted or denied. If we grant your request, we will take the necessary steps to amend your record and, when appropriate and possible, notify prior recipients of the record of our action. If we deny the request, in whole or in part, we will tell you—

(1) Why we denied the request (or portion of the request);

(2) That you have a right to appeal; and

(3) How to file an appeal.

### §261a.10 Appeal of adverse determination of request for access or amendment.

(a) *Appeal.* You may appeal a denial of a request made pursuant to §261a.5 or §261a.8 of this part within 10 business days after we notify you that we denied your request. Your appeal must—

(1) Be made in writing with the words "PRIVACY ACT APPEAL" written prominently on the first page and addressed to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551;

(2) Specify the background of the request; and

(3) Provide reasons why you believe the initial denial is in error.

(b) *Determination.* We will make a determination on your appeal within 30 business days from the date we receive it, unless we extend the time for good cause.

(1) If we grant your appeal regarding a request for amendment, we will take the necessary steps to amend your record and, when appropriate and possible, notify prior recipients of the record of our action.

(2) If we deny your appeal, we will inform you of such determination, tell you our reasons for the denial, and tell

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you about your rights to file a statement of disagreement and to have a court review our decision.

(c) *Statement of disagreement.* (1) If we deny your appeal regarding a request for amendment, you may file a concise statement of disagreement with the denial. We will maintain your statement with the record you sought to amend and any disclosure of the record will include a copy of your statement of disagreement.

(2) When practicable and appropriate, we will provide a copy of the statement of disagreement to any prior recipients of the record.

## Subpart C—Disclosure of Records

### § 261a.11 Restrictions on disclosure.

We will not disclose any record about you contained in a system of records to any person or agency without your prior written consent unless the disclosure is authorized by 5 U.S.C. 552a(b).

### § 261a.12 Exempt records.

(a) *Information compiled for civil action.* This regulation does not permit you to have access to any information compiled in reasonable anticipation of a civil action or proceeding.

(b) *Law enforcement information.* Pursuant to 5 U.S.C. 552a(k)(2), we have determined that it is necessary to exempt the systems of records listed below from the requirements of the Privacy Act concerning access to records, accounting of disclosures of records, maintenance of only relevant and necessary information in files, and certain publication provisions, respectively, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f), and §§ 261a.5, 261a.7, and 261a.8 of this part. The exemption applies only to the extent that a system of records contains investigatory materials compiled for law enforcement purposes.

(1) BGFRS-1 Recruiting and Placement Records

(2) BGFRS-2 Personnel Security Systems

(3) BGFRS-4 General Personnel Records

(4) BGFRS-5 EEO Discrimination Complaint File

(5) BGFRS-18 Consumer Complaint Information

(6) BGFRS-21 Supervisory Enforcement Actions and Special Examinations Tracking System

(7) BGFRS-31 Protective Information System

(8) BGFRS-32 Visitor Registration System

(9) BGFRS-36 Federal Reserve Application Name Check System

(10) BGFRS-37 Electronic Applications

(11) BGFRS-43 Security Sharing Platform

(12) BGFRS/OIG-1 OIG Investigative Records

(c) *Confidential references.* Pursuant to 5 U.S.C. 552a(k)(5), we have determined that it is necessary to exempt the systems of records listed below from the requirements of the Privacy Act concerning access to records, accounting of disclosures of records, maintenance of only relevant and necessary information in files, and certain publication provisions, respectively, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f), and §§ 261a.5, 261a.7, and 261a.8 of this part. The exemption applies only to the extent that a system of records contains investigatory material compiled to determine an individual's suitability, eligibility, and qualifications for Board employment or access to classified information, and the disclosure of such material would reveal the identity of a source who furnished information to the Board under a promise of confidentiality.

(1) BGFRS-1 Recruiting and Placement Records

(2) BGFRS-2 Personnel Security Systems

(3) BGFRS-4 General Personnel Records

(4) BGFRS-10 General Files on Board Members

(5) BGFRS-11 Official General Files

(6) BGFRS-13 Federal Reserve System Bank Supervision Staff Qualifications

(7) BGFRS-14 General File on Federal Reserve Bank and Branch Directors

(8) BGFRS-25 Multi-Rater Feedback Records

(9) BGFRS/OIG-1 OIG Investigative Records

(10) BGFRS/OIG-2 OIG Personnel Records

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(d) *Criminal law enforcement information.* Pursuant to 5 U.S.C. 552a(j)(2), we have determined that the OIG Investigative Records (BGFRS/OIG-1) are exempt from the Privacy Act, except the provisions regarding disclosure, the requirement to keep an accounting, certain publication requirements, certain requirements regarding the proper maintenance of systems of records, and the criminal penalties for violation of the Privacy Act, respectively, 5 U.S.C. 552a(b), (c)(1), and (2), (e)(4)(A) through (F), (e)(6), (e)(7), (e)(9), (e)(10), (e)(11) and (i).

[75 FR 63704, Oct. 18, 2010, as amended at 85 FR 73604, Nov. 19, 2020]

### PART 261b—RULES REGARDING PUBLIC OBSERVATION OF MEETINGS

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- 261b.1 Basis and scope.
- 261b.2 Definitions.
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- 261b.4 Meetings open to public observation.
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- 261b.7 Meetings closed to public observation under expedited procedures.
- 261b.8 Meetings closed to public observation under regular procedures.
- 261b.9 Changes with respect to publicly announced meeting.
- 261b.10 Certification of General Counsel.
- 261b.11 Transcripts, recordings, and minutes.
- 261b.12 Procedures for inspection and obtaining copies of transcriptions and minutes.
- 261b.13 Fees.

AUTHORITY: 5 U.S.C. 552b.

SOURCE: 42 FR 13297, Mar. 10, 1977, unless otherwise noted.

#### § 261b.1 Basis and scope.

This part is issued by the Board of Governors of the Federal Reserve System (“the Board”) under section 552b of title 5 of the United States Code, the Government in the Sunshine Act (“the Act”), to carry out the policy of the Act that the public is entitled to the fullest practicable information regarding the decision making processes of the Board while at the same time preserving the rights of individuals and the ability of the Board to carry out its responsibilities. These regulations ful-

fill the requirement of subsection (g) of the Act that each agency subject to the provisions of the Act shall promulgate regulations to implement the open meeting requirements of subsections (b) through (f) of the Act.

#### § 261b.2 Definitions.

For purposes of this part, the following definitions shall apply:

(a) The term *agency* means the Board and subdivisions thereof.

(b) The term *subdivision* means any group composed of two or more Board members that is authorized to act on behalf of the Board.

(c) The term *meeting* means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official Board business, but does not include (1) deliberations required or permitted by subsections (d) or (e) of the Act, or (2) the conduct or disposition of official agency business by circulating written material to individual members.

(d) The term *number of individual agency members required to take action on behalf of the agency* means in the case of the Board, a majority of its members except that (1) Board determination of the ratio of reserves against deposits under section 19(b) of the Federal Reserve Act requires the vote of four members, (2) Board action with respect to advances, discounts and rediscounts under sections 10(a), 11(b), and 13(3) of the Federal Reserve Act requires the vote of five members and (3) Board action with respect to the percentage of individual member bank capital and surplus which may be represented by loans secured by stock and bond collateral under section 11(m) of the Federal Reserve Act requires the vote of six members. In the case of subdivisions of the Board, the term means the number of members constituting a quorum of the designated subdivision.

(e) The term *member* means a member of the Board appointed under section 10 of the Federal Reserve Act. In the case of certain Board proceedings pursuant to 12 U.S.C. 1818(e), the Comptroller of the Currency is entitled to sit as a