

§265.10 Functions delegated to Secretary of Federal Open Market Committee.

The Secretary of the Federal Open Market Committee (or the Deputy Secretary in the Secretary's absence) is authorized:

(a) Records of policy actions. To approve for inclusion in the Board's Annual Report to Congress, records of policy actions of the Federal Open Market Committee.

(b) [Reserved]

§265.11 Functions delegated to Federal Reserve Banks.

Each Federal Reserve Bank is authorized as to a member bank or other indicated organization for which the Reserve Bank is responsible for receiving applications or registration statements or to take other actions as indicated:

(a) *Procedure*—(1) *Member bank affiliate's reports*. To extend the time for good cause shown, within which an affiliate of a state member bank must file reports under section 9(17) of the Federal Reserve Act (12 U.S.C. 334).

(2) *Edge corporation's divestiture of stock*. To extend the time in which an Edge Act corporation must divest itself of stock acquired in satisfaction of a debt previously contracted under section 25A(9) of the Federal Reserve Act (12 U.S.C. 615).

(3) *Edge corporation's corporate existence*. To extend the period of corporate existence of an Edge corporation under section 25A(22) of the Federal Reserve Act (12 U.S.C. 628).

(4) *Bank holding company registration statement*. To extend the time within which a bank holding company must file a registration statement under section 5(a) of the Bank Holding Company Act (12 U.S.C. 1844(a)).

(5) *Bank holding company divestiture of nonbanking interests*. To extend the time within which a bank holding company must divest itself of interests in nonbanking organizations under section 4(a) of the Bank Holding Company Act (12 U.S.C. 1843(a)).

(6) *Bank holding company divestiture of dpc interests*. To extend the time within which a bank holding company or any of its subsidiaries must divest itself of

interests acquired in satisfaction of a debt previously contracted:

(i) Under section 4(c)(2) of the Bank Holding Company Act (12 U.S.C. 1843(c)(2)) or §225.22(c)(1) of Regulation Y (12 CFR part 225); or

(ii) Under sections 2(a)(5)(D) and 3(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)(5)(D) and 1842(a)).

(7) *Member bank's surrender of Reserve Bank stock upon withdrawal from membership*. To extend the time within which a member bank that has given notice of intention to withdraw from membership must surrender its Federal Reserve Bank stock and its certificate of membership under Regulation H (12 CFR 208.11(c)).

(8) *Members bank's reports of condition*. To extend the time for publication of reports of condition under Regulation H (12 CFR part 208) for good cause shown.

(9) *Bank holding company's annual reports*. To grant to a bank holding company a 90-day extension of time in which to file an annual report, and for good cause shown grant an additional extension of time not to exceed 90 days under section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)).

(10) *Regulation K—Divestiture of foreign portfolio investment, joint venture, or subsidiary acquired through debt previously contracted*. To extend the time within which an investor must divest itself of interests in a foreign portfolio investment, joint venture, or subsidiary acquired in satisfaction of a debt previously contracted under Regulation K (12 CFR 211.5(e)).

(11) *Bank holding company's acquisition of shares, opening new bank, consummating merger*. To extend the time within which a bank holding company may acquire shares, open a new bank to be acquired, or consummate a merger in connection with an application approved by the Board, if no material change relevant to the proposal has occurred since its approval.

(12) *Member bank's establishing domestic or foreign branch; Edge or agreement corporation's establishing branch or agency*. To extend the times within which:

(i) A member bank may establish a domestic branch;

(ii) A member bank may establish a foreign branch; or

(iii) An Edge or agreement corporation may establish a branch or agency, if no material change has occurred in the bank's (or corporation's) general condition since the application was approved.

(13) *Purchase of stock by Edge or Agreement Corporation, member bank, or bank holding company.* To extend the time within which an Edge or Agreement corporation, member bank, or a bank holding company may accomplish a purchase of stock if no material change has occurred in the general condition of the corporation, the member bank, or bank holding company since such authorization under sections 25 or 25A of the Federal Reserve Act or section 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 615, 628, 1843.)

(14) *Federal Reserve Membership.* To extend the time within which Federal Reserve membership must be accomplished, if no material change has occurred in the bank's general condition since the application was approved.

(15) *Enforcement actions; written agreements; cease and desist orders.* With the prior approval of both the Board's Director of the Division of Banking Supervision and Regulation and the Board's General Counsel;

(i) To enter into a written agreement with a bank holding company or any nonbanking subsidiary thereof, with a state member bank, or with any other person or entity subject to the Board's supervisory jurisdiction under 12 U.S.C. 1818(b) concerning the prevention or correction of an unsafe or unsound practice in conducting the business of the bank holding company, nonbanking subsidiary, or state member bank or other entity, or concerning the correction or prevention of any violation of law, rule, or regulation, or any condition imposed in writing by the Board in connection with the granting of any application or other request by the bank or company or any other appropriate matter;

(ii) To stay, modify, terminate, or suspend an agreement entered into pursuant to this paragraph;

(iii) To stay, modify, terminate, or suspend an outstanding cease and desist order that has become final pursuant to 12 U.S.C. 1818 (b) and (k). Any agreement authorized under this para-

graph may, by its terms, be enforceable to the same extent and in the same manner as an effective and outstanding cease and desist order that has become final pursuant to 12 U.S.C. 1818 (b) and (k).

(16) *Appointment of assistant Federal Reserve agents.* To approve the appointment of assistant Federal Reserve agents (including representatives or alternate representatives of such agents) under section 4, paragraph 21 of the Federal Reserve Act (12 U.S.C. 306).

(b) *Availability of Information—(1) Availability of Information; Board records.* To make available information of the Board of the nature and in the circumstances described in the Board's Rules Regarding Availability of Information (12 CFR 261.11).

(2) [Reserved]

(c) *Bank holding companies; Change in bank control; Mergers—(1) Require reports under oath.* To require reports under oath to determine whether a company is complying with section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)).

(2) *Acquisition of going concern—authorization of consummation; early consummation.* (i) To notify a bank holding company that, because the circumstances surrounding the application to acquire a going concern indicate that additional information is required or that the acquisition should be considered by the Board, the acquisition should not be consummated until specifically authorized by the Reserve Bank or by the Board.

(ii) To permit a bank holding company to make a proposed acquisition of a going concern before the expiration of the 30-day period referred to in Regulation Y (12 CFR 225.23(a)(2)) because exigent circumstances justify consummation of the acquisition at an earlier time.

(3) *Petition for review of decision that adverse comments are not substantive; permit proposed de novo activities; authorization of consummation; early consummation.* Under § 225.4(b)(1) of Regulation Y (12 CFR part 225) and subject to § 265.3 of this part, if a person submitting adverse comments that the Reserve Bank had decided are not substantive files a petition for review by the Board of that decision:

(i) To permit a bank holding company to engage *de novo* in activities specified in § 225.25 of Regulation Y (12 CFR part 225), or retain shares in a company established *de novo* and engaging in such activities, if the Reserve Bank's evaluation of the considerations specified in section 4(c)(8) of the Bank Holding Company Act leads it to conclude that the proposal can reasonably be expected to produce benefits to the public.

(ii) To notify a bank holding company that the proposal should not be consummated until specifically authorized by the Reserve Bank or by the Board or that the proposal should be processed in accordance with the procedures in § 225.23(a)(2) of Regulation Y (12 CFR part 225).

(iii) To permit a bank holding company to consummate the proposal before the expiration of the 45-day period referred to in § 225.23(a)(1) of Regulation Y because exigent circumstances justify consummation at an earlier time under § 225.4(b)(1) of Regulation Y (12 CFR part 225).

(4) *Permit or stay of modification or location of activities.* To permit or stay a proposed *de novo* modification or relocation of activities engaged in by a bank holding company on the same basis as *de novo* proposals under § 265.11(d)(3) of this part.

(5) *Notices under change in Bank Control Act.* With respect to the bank holding company or a state member bank:

(i) To determine the informational sufficiency of notices and reports filed under the Change in Bank Control Act;

(ii) To extend periods for consideration of notices;

(iii) To determine whether a person who is or will be subject to a presumption described in § 225.41(b) of Regulation Y (12 CFR part 225) should file a notice regarding a proposed transaction; and

(iv) To issue a notice of intention not to disapprove a proposed change in control if all the following conditions are met:

(A) No member of the Board has indicated an objection prior to the Reserve Bank's action;

(B) No senior officer or director of an involved party is also a director of a Federal Reserve Bank or branch;

(C) All relevant departments of the Reserve Bank concur;

(D) If the proposal involves shares of a state member bank or a bank holding company controlling a state member bank, the appropriate bank supervisory authorities have indicated that they have no objection to the proposal, or no objection has been received from them within the time allowed by the act; and

(E) No significant policy issue under the change in Bank Control Act, 12 U.S.C. 1817(j) or § 225.41 of Regulation Y (12 CFR part 225) is raised by the proposal as to which the Board has not expressed its view.

(6) *Failure to comply with publication requirement under change in Bank Control Act.* To waive, dispense with, modify, or excuse the failure to comply with the requirement for publication and solicitation of public comment regarding a notice filed under the Change in Bank Control Act, with the concurrence of the Board's Director of the Division of Banking Supervision and Regulation and the Board's General Counsel, provided that a written finding is made that such disclosure or solicitation would seriously threaten the safety or soundness of a bank holding company or bank under the Change in Bank Control Act (12 U.S.C. 1817(j)(2)).

(7) *Grandfathered nonbanking activities.* To determine under section 4(a)(2) of the Bank Holding Company Act (12 U.S.C. 1843(a)(2)) that termination of grandfathered nonbanking activities of a particular bank holding company is not warranted, provided the Reserve Bank is satisfied all of the following conditions are met:

(i) The company or its successor is "a company covered in 1970";

(ii) The nonbanking activities for which indefinite grandfather privileges are being sought do not present any significant unsettled policy issues; and

(iii) The bank holding company was lawfully engaged in such activities as of June 30, 1968 and has been engaged in such activities continuously thereafter.

(8) *Opening of additional nonbanking offices.* To approve applications by a bank holding company under sections 4(c)(8) and 5(b) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)),

1844(b)) and § 225.23(b) of Regulation Y (12 CFR part 225) to open additional offices to engage in nonbanking activities for which the bank holding company previously received approval pursuant to Board order, unless one of the conditions specified in § 265.11(f) (1), (2), (3), or (4), of this part is present.

(9) *Notices for addition or change of directors or officers.* Under section 914(a) of the Financial Institutions Reform, Recovery and Enforcement Act (12 U.S.C. 1831i) and subpart H of Regulation Y (12 CFR part 225), provided that no senior officer or director or proposed senior officer or director of the notificant is also a director of the Reserve Bank or a branch of the Reserve Bank:

(i) To determine the informational sufficiency of notices filed pursuant to § 225.72 of Regulation Y; and

(ii) To waive the prior notice requirements of that section.

(10) *Acquisition approvals under section 5(d)(3) of the FDI Act.* To approve, under section 5(d)(3)(E) of the Federal Deposit Insurance Act, requests by a bank holding company to engage in any transaction described in section 5(d)(3)(A) of that Act.

(11) *Applications requiring Board approval; competitive factors reports for bank mergers.* To approve applications requiring prior approval of the Board and furnish to the Comptroller of the Currency and the Federal Deposit Insurance Corporation reports on competitive factors involved in a bank merger required to be approved by one of those agencies, unless one or more of the following conditions is present.

(i) A member of the Board has indicated an objection prior to the Reserve Bank's action; or

(ii) The Board has indicated that such delegated authority shall not be exercised by the Reserve Bank in whole or in part; or

(iii) A written substantive objection to the application has been properly made; or

(iv) The application raises a significant policy issue or legal question on which the Board has not established its position; or

(v) With respect to bank holding company formations, bank acquisitions or mergers, the proposed transaction

involves two or more banking organizations that, upon consummation of the proposal, would control over 35 percent of total deposits (including 50 percent of thrift deposits) in banking offices in the relevant geographic market, or would result in an increase of at least 200 points in the Herfindahl-Hirschman Index (HHI) in a highly concentrated market (a market with a post-merger HHI of at least 1800); or

(vi) With respect to nonbank acquisitions, the nonbanking activities involved do not clearly fall within activities that the Board has designated as permissible for bank holding companies under § 225.25(b) of Regulation Y.

(d) *International banking—(1) Application to establish Edge Corporation.* To approve the application by a U.S. banking organization to establish an Edge corporation under section 25 of the Federal Reserve Act (12 U.S.C. 611) and the Board's Regulation K (12 CFR part 211) if all of the following criteria are met:

(i) The U.S. banking organization meets the capital adequacy guidelines and is otherwise in satisfactory condition;

(ii) The proposed Edge corporation will be a wholly-owned subsidiary of a single banking organization; and

(iii) No other significant policy issue is raised on which the Board has not previously expressed its view.

(2) *Issuance of permit to Edge corporation to commence business.* To issue to an Edge corporation under section 25A of the Federal Reserve Act (12 U.S.C. 612) and Regulation K, § 211.4(a) (12 CFR part 211) a final permit to commence business and to approve amendments to the articles of association of any Edge corporation to reflect the following:

(i) Any increase in capital stock where all additional shares are to be acquired by existing shareholders;

(ii) Any change in the location of the home office in the city where the Edge corporation is presently located;

(iii) Any change in the number of members of the board of directors;

(iv) Any change in the name; and

(v) Deletion of the requirements that all directors and shareholders must be U.S. citizens.

(3) *Edge corporation establishing branch abroad.* To approve, under §211.3(a) Regulation K (12 CFR part 211), an Edge corporation application to establish a branch abroad, provided that no senior officer or director of the involved parties is also a director of a Reserve Bank or branch and that no significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(4) *Member bank establishing foreign branch.* To approve under §211.3(a) of Regulation K (12 CFR part 211) a member bank's establishing, directly or indirectly, a foreign branch where the application is not one for a full-service branch in a foreign country, provided that no senior officer or director of the involved parties is also a director of a Reserve Bank or branch and that no significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(5) *Agreement with foreign bank concerning deposits of out-of-home-state branch.* To enter into an agreement or undertaking with a foreign bank that it shall receive only such deposits at its out-of-home-state branch as would be permissible for an Edge corporation under section 5 of the International Banking Act (12 U.S.C. 3103).

(6) *Waiver of 30-day prior notification period.* To waive the 30-day prior notification period with respect to a foreign bank's change of home state under §211.22(c)(1) of Regulation K (12 CFR part 211).

(7) *Granting specific consent.* To grant prior specific consent to an investor for an investment in its first subsidiary or its first joint venture, where such investment does not exceed the general consent limitations under 211.5(c) of Regulation K (12 CFR part 211).

(8) *Requiring application for specific consent.* To suspend the notification period or require that an investor file an application for the Board's specific consent under §211.5(c)(2) of Regulation K (12 CFR part 211).

(9) *Investment in export trading company.* To issue a notice of intention not to disapprove a proposed investment in an export trading company if all the following criteria are met:

(i) The proposed export trading company will be a wholly-owned subsidiary

of a single investor, or ownership will be shared with an individual or individuals involved in the operation of the export trading company;

(ii) A bank holding company investor and its lead bank meet the minimum capital adequacy guidelines of the Board, the Comptroller of the Currency, or the Federal Deposit Insurance Corporation or have enacted capital enhancement plans that have been determined by the appropriate supervisory authority to be acceptable.

(iii) The proposed activities of the export trading company do not include product research or design, product modification, or activities not specifically covered by the list of services contained in 4(c)(14)(F)(ii) of the Bank Holding Company Act (12 U.S.C. 1843(c)(14)(F)(ii));

(iv) No other significant policy issue is raised on which the Board has not previously expressed its view under section 4(c)(14) of the Bank Holding Company Act (12 U.S.C. 1843(c)(14) and Regulation K (12 CFR 211.31–211.34).

(10) *Futures commission merchant activities.* To approve, under §211.5(d)(17) of Regulation K (12 CFR part 211), applications to engage in futures commission merchant activities on an exchange that requires members to guarantee or otherwise contract to cover losses suffered by the other members, provided that the Board has previously approved the exchange and the application is on the same terms and conditions on which the Board based its approval of the exchange.

(11) *Establishment of additional office by foreign bank—(i) Additional branch, agency, or commercial lending company.* To approve an application by a foreign bank to establish an additional branch, agency, or commercial lending company in the United States pursuant to § 211.24 of Regulation K (12 CFR 211.24), provided that:

(A) The foreign bank previously received approval from the Board to establish a branch, agency, or commercial lending company in the United States pursuant to §211.24 of Regulation K (12 CFR 211.24); and

(B) The application raises no significant policy or supervisory issues.

(ii) *Representative office.* To approve an application by a foreign bank to establish a representative office in the United States pursuant to § 211.24 of Regulation K (12 CFR 211.24), provided that:

(A) The foreign bank previously received approval from the Board to establish a branch, agency, commercial lending company, or representative office in the United States pursuant to 211.24 of Regulation K (12 CFR 211.24); and

(B) The application raises no significant policy or supervisory issues.

(e) *Member banks*—(1) *Approval of membership applications.* To approve applications for membership in the Federal Reserve System under section 9 of the Federal Reserve Act (12 U.S.C. 321 *et seq.*) and Regulation H (12 CFR part 208) if the Reserve Bank is satisfied with respect to each of the following criteria:

(i) The financial history and condition of the applying bank and the general character of its management;

(ii) The adequacy of its capital structure in relation to the character and condition of its assets and to its existing and prospective deposit liabilities and other corporate responsibilities and its future earnings prospects;

(iii) The convenience and needs of the community to be served by the bank; and

(iv) Whether its corporate powers are consistent with the purposes of the Federal Reserve Act and the Federal Deposit Insurance Act.

(2) *Waiver of notice of intention to withdraw from membership.* To approve or deny applications by state banks for waiver of the required six months' notice of intention to withdraw from Federal Reserve membership under section 9(10) of the Federal Reserve Act (12 U.S.C. 328).

(3) *Approval of branch applications.* To approve a state member bank's establishment of a domestic branch under section 9 of the Federal Reserve Act (12 U.S.C. 321 *et seq.*) and the Regulation H (12 CFR part 208) if the Reserve Bank is satisfied that approval is warranted after considering:

(i) The bank's capitalization in relation to the character and condition of its assets and to its deposit liabilities

and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management;

(ii) The ability of the bank's management to cope successfully with existing or foreseeable problems, and to staff the proposed branch without any significant deterioration in the overall management situation;

(iii) The convenience and needs of the community;

(iv) The competitive situation (either actual or potential);

(v) The prospects for profitable operations of the proposed branch within a reasonable time, and the ability of the bank to sustain the operational losses of the proposed branch until it becomes profitable; and

(vi) The reasonableness of the bank's investment in bank premises after the expenditure for the proposed branch.

(4) *Declaration of dividends in excess of net profits.* To permit a state member bank under section 9(6) of the Federal Reserve Act (12 U.S.C. 324 and 60) to declare dividends in excess of net profits for the calendar year combined with the retained net profits of the preceding two years, less any required transfers to surplus or a fund for the retirement of any preferred stock, if the Reserve Bank is satisfied that approval is warranted after giving consideration to:

(i) The bank's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management; and

(ii) The bank's capitalization after payment of the proposed dividends.

(5) *Reduction of capital stock.* To permit a state member bank under section 9(11) of the Federal Reserve Act (12 U.S.C. 329) to reduce its capital stock if its capitalization thereafter will be:

(i) In conformity with the requirements of federal law; and

(ii) Adequate in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its

marginal and inferior quality assets, all considered in relation to the strength of its management.

(6) *Acceptance of drafts and bills of exchange.* To permit a member bank or a federal or state branch or agency of a foreign bank that is subject to reserve requirements under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) to accept drafts or bills of exchange under section 13(7) of the Federal Reserve Act (12 U.S.C. 372) in an aggregate amount at any one time up to 200 percent of its paid-up and unimpaired capital stock and surplus, if the Reserve Bank is satisfied that such permission is warranted after giving consideration to the institution's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior-quality assets, all considered in relation to the strength of its management.

(7) *Investment in bank premises in excess of capital stock.* To permit a state member bank to invest in bank premises under section 24A of the Federal Reserve Act (12 U.S.C. 371a) in an amount in excess of its capital stock, if the Reserve Bank is satisfied that approval is warranted after giving consideration to the bank's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

(8) *Security devices.* To determine whether security devices and procedures of state member banks are deficient in meeting the requirements of Regulation P (12 CFR part 216) and whether such requirements should be varied in the circumstances of a particular banking office, and whether to require corrective action.

(9) *Classifying member banks for election of directors.* To classify member banks for the purposes of electing Federal Reserve Bank class A and class B directors under section 4(16) of the Federal Reserve Act (12 U.S.C. 304), giving consideration to:

(i) The statutory requirement that each of the three groups shall consist as nearly as may be of banks of similar capitalization; and

(ii) The desirability that every member bank have the opportunity to vote for a class A or a class B director at least once every three years.

(10) *Waiver of penalty for deficient reserves.* To waive the penalty for deficient reserves by a member bank if, after a review of all the circumstances relating to the deficiency, the Reserve Bank concludes that waiver is warranted, except that in no case may a penalty be waived if the deficiency in reserves arises out of the bank's gross negligence or conduct inconsistent with the principles and purposes of reserve requirements.

(11) *Retirement of subordinated debt.* To approve the retirement prior to maturity of capital notes described in §204.2(a)(1)(vii)(C) of Regulation D (12 CFR part 204) and issued by a state member bank, provided the Reserve Bank is satisfied that the capital position of the bank will be adequate after the proposed redemption.

(12) *Public welfare investments.* To permit a state member bank to make a public welfare investment that meets the conditions set forth in §208.21(b)(1)–(8) of Regulation H (12 CFR 208), except that:

(i) The state member bank received an overall rating of "3" as of its most recent consumer compliance examination;

(ii) The investment exceeds 2 percent, but does not exceed 5 percent, of the state member bank's capital stock and surplus as defined under 12 CFR 250.162; or

(iii) The aggregate of all such investments of the state member bank exceeds 5 percent, but does not exceed 10 percent, of its capital stock and surplus as defined under 12 CFR 250.162.

(f) *Securities*—(1) *Application for termination of registration.* To approve applications by a registered lender for termination of the registration under §207.3(a)(2) of Regulation G (12 CFR part 207).

(2) *Agreements from nonmember banks; extensions of credit.* To accept agreements concerning extensions of credit to finance securities transactions on

behalf of the Board from nonmember banks in the form prescribed by the Board under section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)).

(g) *Management interlocks*—(1) *Change in circumstances requiring termination of management interlocks; Regulation L.* To grant time for compliance with §121.6 of Regulation L (12 CFR part 212) of up to an aggregate of 15 months from the date on which the change in circumstances as specified in that section occurs when the additional time appears to be appropriate to avoid undue disruption to the depository organizations involved in the management interlocks.

(2) *Depository Institutions Management Interlocks Act.* After consultation with the General Counsel of the Board, to decide not to disapprove notices to establish director interlocks with diversified savings and loan holding companies. (12 U.S.C. 3204(8)).

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PART 266—LIMITATIONS ON ACTIVITIES OF FORMER MEMBERS AND EMPLOYEES OF THE BOARD

Sec.

266.1 Basis and scope.

266.2 Definitions.

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266.4 Suspension of appearance privilege.

266.5 Criminal penalties.

AUTHORITY: Sec. 11(i), Federal Reserve Act (12 U.S.C. 248(i)); 5 U.S.C. 552.

SOURCE: 38 FR 31672, Nov. 16, 1973, unless otherwise noted.

§ 266.1 Basis and scope.

This part, issued under authority of section 11(i) of the Federal Reserve Act (12 U.S.C. 248(i)), and pursuant to section 552 of title 5 of the United States Code, which requires that every agency shall publish in the FEDERAL REGISTER its rules of procedure, relates to limitations on former members and employees of the Board with respect to participation in matters connected with

their former duties and official responsibilities while serving with the Board.¹

§ 266.2 Definitions.

(a) *Employee* means a regular officer or employee of the Board; it does not include a consultant to the Board.²

(b) *Official responsibility*, with respect to a matter, means administrative, supervisory, or decisional authority, whether intermediate or final, exercisable alone or with others, personally or through subordinates, to approve, disapprove, decide, or recommend Board action or to express staff opinions in dealings with the public.

(c) *Appear personally* includes personal appearance or attendance before, or personal communication, either written or oral, with the Board or a Federal Reserve Bank of any member or employee thereof, or personal participation in the formulation or preparation of any material presented or communicated to, or filed with, the Board, in connection with any application or interpretation arising under the statutes or regulations administered by the Board or the Federal Reserve Banks, except that requests for general information or explanations of Board policy or interpretation shall not be construed to be a personal appearance.

§ 266.3 Limitations.

(a) *Matters on which Board member or employee worked.* No former member or employee of the Board shall appear personally before the Board or a Federal Reserve Bank on behalf of anyone other than the United States, an agency thereof, or a Federal Reserve Bank, in connection with any judicial or

¹While the Board has not adopted rules with regard to the disclosure of unpublished information by former Board members and employees, it advises such persons not to disclose unpublished information of the Board obtained in the course of their work. Questions in this regard may be addressed to the General Counsel or the Secretary of the Board.

²While former consultants to the Board are not covered by these Rules, they appear to fall within the coverage of section 207 of the United States Criminal Code (18 U.S.C. 207) that provides criminal penalties for engaging in activities similar, although not identical, to those described in paragraphs (a) and (b) of § 266.3.