

National Credit Union Administration

§ 791.12

authorized by the Board to act on behalf of the agency;

(d) *Meeting* means any deliberations by two or more members of the Board or any subdivision of the Board that determine or result in the joint conduct or disposition of official agency business with the exception of: (1) Deliberations to determine whether a meeting or a portion thereof will be open or closed to public observation and whether information regarding closed meetings will be withheld from public disclosure; (2) deliberations to determine whether or when to schedule a meeting; and (3) infrequent dispositions of official agency business by sequential circulation of written recommendations to individual Board members ("notation voting procedure"), provided the votes of each Board member and the action taken are recorded for each matter and are publicly available, unless exempted from disclosure pursuant to 5 U.S.C. 552 (the Freedom of Information Act);

(e) *Public observation* means that a member or group of the public may listen to and observe any open meeting and may record in an unobtrusive manner any portion of that meeting by use of a camera or any other electronic device, but shall not participate in any meeting unless authorized by the Board;

(f) *Public announcement* or *publicly announce* means making reasonable efforts under the particular circumstances to fully inform the public, especially those individuals who have expressed interest in the subject matters to be discussed or the decisions of the agency;

(g) *Sunshine Act* means the open meeting provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b.)

§ 791.11 Open meetings.

Except as provided in § 791.12(a), any portion of any meeting of the Board shall be open to public observation. The Board, and any subdivision of the Board, shall jointly conduct official agency business only in accordance with this subpart.

§ 791.12 Exemptions.

(a) Under the procedures specified in § 791.14, the Board may close a meeting

or any portion of a meeting from public observation or may withhold information pertaining to such meetings provided the Board has properly determined that the public interest does not require otherwise and that the meeting (or any portion thereof) or the disclosure of meeting information is likely to:

- (1) Disclose matters that are:
 - (i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and
 - (ii) In fact properly classified pursuant to such Executive Order;
- (2) Relate solely to internal personnel rules and practices;
- (3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5 of the United States Code, the Freedom of Information Act), provided that such statute:
 - (i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
 - (ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (5) Involve accusing any person of a crime, or formally censuring any person;
- (6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (7) Disclose investigatory records compiled for enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:
 - (i) Interfere with enforcement proceedings,
 - (ii) Deprive a person of a right to a fair trial or an impartial adjudication,
 - (iii) Constitute an unwarranted invasion of personal privacy,
 - (iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by a Federal