

ANNUAL REPORT TO CONGRESS
ON
THE FREEDOM OF INFORMATION ACT
FOR THE YEAR 1975

FEDERAL OPEN MARKET COMMITTEE

March 1, 1976

The following information is submitted to the Congress by the Federal Open Market Committee of the Federal Reserve System in accordance with the requirements of the Freedom of Information Act (5 U.S.C. § 552), as amended in 1974 by Public Law 93-502.

(1) The number of determinations not to comply with requests for records made pursuant to the Committee's Rules Regarding Availability of Information and 5 U.S.C. § 552(a) and the reasons for such determinations.

During calendar year 1975, 2 formal determinations were made by staff of the Federal Open Market Committee not to comply with requests for records filed pursuant to the Committee's Rules Regarding Availability of Information under subsection (a) of 5 U.S.C. § 552. The exemption invoked in each case was the exemption for intra-agency memoranda that would not be available by law to a party other than an agency in litigation with the agency, which is embodied in 5 U.S.C. § 552(b)(5). In addition, in 3 instances, staff of the Committee determined to approve requests for records subject to the deferred availability provision of the Committee's Rules Regarding Availability of Information, 12 C.F.R. § 271.5. In 2 of these instances, the request had been made in conjunction with a request that the staff determined to deny, as set forth above.

(2) The number of appeals made by persons under 5 U.S.C. § 552(a)(6) and the Committee's Rules Regarding Availability of Information, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information.

One of the two initial determinations to deny access to Committee records was appealed. On appeal, the staff determination

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not to comply with the request was upheld under authority of the intra-agency memoranda exemption, 5 U.S.C. § 552(b)(5). With respect to the other initial determination not to comply with a request for records, the requesting party did not contest that determination but did "appeal" the staff's concurrent determination to apply the deferred availability provision of the Committee's Rules, 12 C.F.R. § 271.5, to his collateral request for certain other records. This latter staff action was also upheld on review.

(3) The names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each.

Initial denials

Arthur L. Broida, Secretary, Federal Open Market
Committee - 2

Appeals

Robert C. Holland, Member, Federal Open Market
Committee - 1

(4) The results of each proceeding conducted pursuant to 5 U.S.C. § 552(a)(4)(F), including a report of the disciplinary action taken against the officer or employee who is primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken.

No such proceedings were conducted.

(5) A copy of every rule made by such agency regarding the Freedom of Information Act.

Attached is a copy of the Committee's Rules Regarding Availability of Information which were amended effective February 19, 1975,

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to implement the 1974 Amendments to the Freedom of Information Act, and later amended effective March 21, 1975, to reduce the length of time during which public availability of certain of the Committee's records will normally be deferred. Copies of the 1975 Amendments to these Rules, in the form published in the Federal Register, are also attached.

(6) A copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section.

As indicated in the attached excerpt from the Rules Regarding Availability of Information, the basic fee schedule is \$10 per hour for searching and 10 cents per standard page for copying. There is also a provision for waiver of fees where total charges are less than \$2, and where waiver is in the public interest because furnishing the information primarily benefits the general public. During 1975, \$59.10 was collected for materials furnished and services rendered in accordance with the Freedom of Information Act.

(7) Such other information as indicates efforts to administer fully this section.

The Federal Reserve Board publishes a substantial amount of statistical data relating to the operations carried out under the direction of the Committee in the monthly Federal Reserve Bulletin and in various weekly, monthly, and other informational press releases. Actions of the Committee are recorded in its Minutes of Actions and Selected List of Actions. These documents are routinely made available

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for public inspection, in accordance with applicable provisions of the Committee's Rules Regarding Availability of Information, in the Public Information Office, Federal Reserve Board.

During 1975, it was not necessary to extend the time within which to comply with any initial request for records; nor was it necessary to extend the time for determination on any appeal. In addition, there were no instances of court appeals being taken on the basis of exhaustion of administrative remedies because the Committee was unable to comply with a request within the applicable time limit. During 1975, requests for information of the Committee available in the form of press releases or pamphlets were filled without charge.

Attachments

Excerpt from the Committee's Rules Regarding
Availability of Information (section 271.4)

(f) Fee Schedule. A person requesting access to or copies of particular records shall pay the costs of searching and copying such records at the rate of \$10 per hour for searching and 10 cents per standard page for copying. With respect to information obtainable only by processing through a computer or other information systems program, a person requesting such information shall pay a fee not to exceed the direct and reasonable cost of retrieval and production of the information requested. Detailed schedules of such charges are available upon request from the Secretary of the Committee. Documents may be furnished without charge or at a reduced charge where the Secretary of the Committee or such person as he may designate determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public, or where total charges are less than \$2.

Title 12—Banks and Banking
CHAPTER II—FEDERAL RESERVE
SYSTEM

SUBCHAPTER B—FEDERAL OPEN MARKET
COMMITTEE

PART 271—RULES REGARDING
AVAILABILITY OF INFORMATION

Domestic Policy Directive; Reduction of Lag
in Deferred Availability and Correction of
Title

Section 271.5(a) of the Committee's rules regarding availability of information has been amended to indicate that the domestic policy directive adopted at each meeting of the Committee will be published in the FEDERAL REGISTER approximately 45 days after the date of its adoption, rather than approximately 90 days as previously provided in that subsection. This amendment reflects a judgment by the Committee that a lag of 45 days is adequate to avoid an unacceptable degree of risk that speculators would be able to take unfair advantage of information regarding the directive adopted or that market reactions would impair the effectiveness of the Committee's functions. Also, the title of this directive has been corrected from "current economic policy directive"—the title that had been employed when § 271.5(a) was last amended—to "domestic policy directive"—the title presently employed. This is a technical revision of title only.

In order to accomplish these changes, § 271.5(a) is amended, effective March 24, 1975, to read as follows:

§ 271.5 Deferment of availability of certain information.

(a) *Deferred availability of information.* In some instances, certain types of information of the Committee are not published in the FEDERAL REGISTER or made available for public inspection or copying until after such period of time as the Committee may determine to be reasonably necessary to avoid the effects described in paragraph (b) of this section or as may otherwise be necessary to prevent impairment of the effective discharge of the Committee's statutory responsibilities. For example, the Committee's domestic policy directive adopted at each meeting of the Committee is published in the FEDERAL REGISTER approximately 45 days after the date of its adoption; and no information in the records of the Committee relating to the adoption of any such directive is made available for public inspection or copying before it is published in the FEDERAL REGISTER or is otherwise released to the public by the Committee.

The requirements of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with these amendments because the rules involved are procedural in nature and accordingly do not constitute substantive rules subject to the requirements of such section.

By order of the Federal Open Market Committee, March 21, 1975.

ARTHUR L. BRODA,
Secretary.

**CHAPTER II—FEDERAL RESERVE SYSTEM
SUBCHAPTER B—FEDERAL OPEN MARKET
COMMITTEE**

**PART 271—RULES REGARDING
AVAILABILITY OF INFORMATION**

**Implementation of 1974 Amendments to
the Freedom of Information Act**

The purpose of these revisions is to implement the 1974 Amendments to the Freedom of Information Act (5 U.S.C. 552). The amended regulations will (1) provide specific time limits for making a determination as to the availability of requested information (2) clearly identify the official(s) responsible for any initial or final denial of a request for information and (3) revise the Committee's Rules with regard to exemption (1) of the Freedom of Information Act.

Additionally, on January 27, 1975 there was published in the Federal Register (40 FR 4022) a notice of proposed rulemaking with regard to a proposed fee schedule applicable to all constituent units of the Committee. The Committee has considered all aspects of the proposed fee schedule and the proposed fee schedule is hereby adopted with the following change: addition of a provision for the waiver of search and duplication charges of less than \$2. The new fee schedule is incorporated herein as § 271.4(f) of the revised Rules Regarding Availability of Information.

In order to accomplish these revisions and to otherwise update the Rules Regarding Availability of Information, §§ 271.4 and 271.6 are amended, effective February 19, 1975, in the following respects:

(1) Section 271.4 is amended by the modification of paragraph (c) and the addition of new paragraphs (d), (e) and (f) to read as follows:

§ 271.4 Records available to the public on request.

(c) *Obtaining access to records.* Any person requesting access to records of the Committee shall submit such request in writing to the Secretary of the Committee. In any case in which the records requested, or copies thereof, are available at a Federal Reserve Bank, the Secretary of the Committee may so advise the person requesting access to the records. Every request for access to records of the Committee shall state the full name and address of the person requesting them and shall describe such records in a manner reasonably sufficient to permit their identification without undue difficulty. The Secretary of the Committee shall determine within ten working days after receipt of a request for access to records of the Committee whether to comply with such request; and he shall immedi-

ately notify the requesting party of his decision, of the reasons therefor, and of the right of the requesting party to appeal to the Committee any refusal to make available the requested records of the Committee.

(d) *Appeal of denial of access to records of the Committee.* Any person who is denied access to the records of the Committee, properly requested in accordance with paragraph (c) of this section, may file, with the Secretary of the Committee, within ten days of notification of such denial, a written request for review of such denial. The Committee, or such member or members of the Committee may designate (pursuant to § 272.4(c) of its Rules of Procedure) shall make a determination with respect to any such appeal within 20 working days of its receipt, and shall immediately notify the appealing party of the decision on the appeal and of the right to seek court review of any decision which upholds, in whole or in part, the refusal of the Secretary of the Committee to make available the requested records.

(e) *Extension of time requirements in unusual circumstances.* In unusual circumstances as provided in 5 U.S.C. 552 (a) (6) (b), the time limitation imposed upon the Secretary of the Committee or the Committee or its designated representative(s) in paragraphs (c) and (d) of this section may be extended by written notice to the requesting party for a period of time not to exceed a total of ten working days.

(f) *Fee schedule.* A person requesting access to or copies of particular records shall pay the costs of searching and copying such records at the rate of \$10 per hour for searching, and 10 cents per standard page for copying. With respect to information obtainable only by processing through a computer or other information systems program, a person requesting such information shall pay a fee not to exceed the direct and reasonable cost of retrieval and production of the information requested. Detailed schedules of such charges are available upon request from the Secretary of the Committee. Documents may be furnished without charge or at a reduced charge where the Secretary of the Committee or such person as he may designate determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public, or where total charges are less than \$2.

(2) Section 271.6 is amended by the deletion of the concluding sentence in that section and the revision of paragraph (a) to read as follows:

§ 271.6 Information not disclosed.

(a) is exempted from disclosure by statute or 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 such executive order.

(3) The requirements of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with these amendments (except for § 271.4(f)) because the rules involved are procedural in nature and accordingly do not constitute substantive rules subject to the requirements of such section.

By order of the Federal Open Market Committee, February 19, 1975.

**ARTHUR L. BRODA,
Secretary.**

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FEDERAL OPEN MARKET COMMITTEE

**RULES REGARDING
AVAILABILITY OF INFORMATION**

(12 CFR 271)

As amended effective March 24, 1975

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RULES REGARDING AVAILABILITY OF INFORMATION*

(12 CFR 271)

As amended effective March 24, 1975

SECTION 271.1—AUTHORITY

This Part is issued by the Federal Open Market Committee (the "Committee") pursuant to the requirement of section 552 of Title 5 of the United States Code that every agency shall publish in the Federal Register for the guidance of the public descriptions of the established places at which, the officers from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions.

SECTION 271.2—DEFINITIONS

(a) **"Information of the Committee"**.—For purposes of this Part, the term "information of the Committee" means all information coming into the possession of the Committee or of any member thereof or of any officer, employee, or agent of the Committee, the Board of Governors of the Federal Reserve System (the "Board"), or any Federal Reserve Bank, in the performance of duties for, or pursuant to the direction of, the Committee.

(b) **"Records of the Committee"**.—For purposes of this Part, the term "records of the Committee" means rules, statements, opinions, orders, memoranda, letters, reports, accounts, and other papers containing information of the Committee that constitute a part of the Committee's official files.

SECTION 271.3—PUBLISHED INFORMATION

(a) **Federal Register**.—To the extent required by sections 552 and 553 of Title 5 of the United States Code, and subject to the provisions of §§ 271.5 and 271.6, the Committee publishes in the Federal Register, in addition to this Part—

- (1) a description of its organization;
- (2) statements of the general course and method by which its functions are channeled and determined;
- (3) rules of procedure;
- (4) substantive rules of general applicability, and statements of general policy and interpretations of general applicability formulated and adopted by the Committee;
- (5) every amendment, revision, or repeal of the foregoing; and
- (6) general notices of proposed rule making.

(b) **Policy record**.—In accordance with section 10 of the Federal Reserve Act (12 U.S.C. 247a), each annual report made to Congress by the Board includes a complete record of the actions taken by the Committee during the preceding year upon all matters of policy relating to open market operations, showing the votes taken and the reasons underlying such actions.

(c) **Other published information**.—From time to time, other information relating to open market operations of the Federal Reserve Banks is published in the Federal Reserve BULLETIN, issued monthly by the Board, in such Board's annual report to Congress, and in announcements and statements released to the press. Copies of issues of the BULLETIN and of annual reports of the Board may be obtained upon request.

SECTION 271.4—RECORDS AVAILABLE TO THE PUBLIC ON REQUEST

(a) **Records available**.—Records of the Committee are made available to any person, upon request, for inspection or copying in accordance

* The text corresponds to the Code of Federal Regulations, Title 12, Chapter II, Part 271; cited as 12 CFR 271. The words "this Part", as used herein, mean these rules.

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with the provisions of this section and subject to the limitations stated in §§ 271.5 and 271.6. Records falling within the exemptions from disclosure set forth in section 552(b) of Title 5 of the United States Code and in § 271.6 may nevertheless be made available in accordance with this section to the fullest extent consistent, in the Committee's judgment, with the effective performance of the Committee's statutory responsibilities and with the avoidance of injury to a public or private interest intended to be protected by such exemptions.

(b) **Place and time.**—In general, the records of the Committee are held in the custody of the Board, but certain of such records, or copies thereof, are held in the custody of one or more of the Federal Reserve Banks. Any such records subject to this section will be made available for inspection or copying during regular business hours at the offices of the Board in the Federal Reserve Building, 20th and Constitution Avenue, Washington, D. C. 20551, or, in certain instances as provided in paragraph (c) of this section, at the offices of one or more designated Federal Reserve Banks.

(c) **Obtaining access to records.**—Any person requesting access to records of the Committee shall submit such request in writing to the Secretary of the Committee. In any case in which the records requested, or copies thereof, are available at a Federal Reserve Bank, the Secretary of the Committee may so advise the person requesting access to the records. Every request for access to records of the Committee shall state the full name and address of the person requesting them and shall describe such records in a manner reasonably sufficient to permit their identification without undue difficulty. The Secretary of the Committee shall determine within ten working days after receipt of a request for access to records of the Committee whether to comply with such request; and he shall immediately notify the requesting party of his decision, of the reasons therefor, and of the right of the requesting party to appeal to the Committee any refusal to make available the requested records of the Committee.

(d) **Appeal of denial of access to records of the Committee.**—Any person who is denied access to records of the Committee, properly requested in accordance with paragraph (c) of this section, may file, with the Secretary of the Committee, within ten days of notification of such denial, a written request for review of such denial.

The Committee, or such member or members as the Committee may designate (pursuant to section 272.4(c) of its Rules of Procedure) shall make a determination with respect to any such appeal within 20 working days of its receipt, and shall immediately notify the appealing party of the decision on the appeal and of the right to seek court review of any decision which upholds, in whole or in part, the refusal of the Secretary of the Committee to make available the requested records.

(e) **Extension of time requirements in unusual circumstances.**—In unusual circumstances as provided in 5 U.S.C. § 552 (a)(6)(b), the time limitations imposed upon the Secretary of the Committee or the Committee or its designated representative[s] in paragraphs (c) and (d) of this section may be extended by written notice to the requesting party for a period of time not to exceed a total of ten working days.

(f) **Fee schedule.**—A person requesting access to or copies of particular records shall pay the costs of searching and copying such records at the rate of \$10 per hour for searching and 10 cents per standard page for copying. With respect to information obtainable only by processing through a computer or other information systems program, a person requesting such information shall pay a fee not to exceed the direct and reasonable cost of retrieval and production of the information requested. Detailed schedules of such charges are available upon request from the Secretary of the Committee. Documents may be furnished without charge or at a reduced charge where the Secretary of the Committee or such person as he may designate determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public, or where total charges are less than \$2.

SECTION 271.5—DEFERMENT OF
AVAILABILITY OF CERTAIN
INFORMATION

(a) **Deferred availability of information.**—In some instances, certain types of information of the Committee are not published in the Federal Register or made available for public inspection or copying until after such period of time as the Committee may determine to be reasonably necessary to avoid the effects described in paragraph (b) of this section or as may otherwise be neces-

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sary to prevent impairment of the effective discharge of the Committee's statutory responsibilities. For example, the Committee's domestic policy directive adopted at each meeting of the Committee is published in the Federal Register approximately 45 days after the date of its adoption; and no information in the records of the Committee relating to the adoption of any such directive is made available for public inspection or copying before it is published in the Federal Register or is otherwise released to the public by the Committee.

(b) Reasons for deferment of availability.—Publication of, or access to, certain information of the Committee may be deferred because earlier disclosure of such information would—

(1) interfere with the orderly execution of policies adopted by the Committee in the performance of its statutory functions;

(2) permit speculators and others to gain unfair profits or to obtain unfair advantages by speculative trading in securities, foreign exchange, or otherwise;

(3) result in unnecessary or unwarranted disturbances in the securities market;

(4) make open market operations more costly;

(5) interfere with the orderly execution of the objectives or policies of other Government agencies concerned with domestic or foreign economic or fiscal matters; or

(6) interfere with, or impair the effectiveness of, financial transactions with foreign banks, bankers, or countries that may influence the flow of gold and of dollar balances to or from foreign countries.

SECTION 271.6—INFORMATION NOT DISCLOSED

Except as may be authorized by the Committee, information of the Committee that is not available to the public through other sources will not be published or made available for inspection, examination, or copying by any person if such information

(a) is exempted from disclosure by statute or 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 such executive order;

(b) relates solely to internal personnel rules or

practices or other internal practices of the Committee;

(c) relates to trade secrets or commercial or financial information obtained from any person and privileged or confidential;

(d) is contained in inter-agency or intra-agency memoranda or letters, including records of deliberations and discussions at meetings of the Committee and reports and documents filed by members or staff of the Committee that would not be routinely available to a private party in litigation with the Committee;

(e) is contained in personnel, medical, or similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or

(f) is contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

Except as provided by or pursuant to this Part, no person shall disclose, or permit the disclosure of, any information of the Committee to any person, whether by giving out or furnishing such information or copy thereof, by allowing any person to inspect, examine, or reproduce such information or copy thereof, or by any other means, whether the information is located at the offices of the Board, any Federal Reserve Bank, or elsewhere, unless such disclosure is required in the performance of duties for, or pursuant to the direction of, the Committee.

SECTION 271.7—SUBPOENAS

(a) Advice by person served.—If any person, whether or not an officer or employee of the Committee, of the Board, or of a Federal Reserve Bank, has information of the Committee that may not be disclosed by reason of § 271.5 or § 271.6 and in connection therewith is served with a subpoena, order, or other process requiring his personal attendance as a witness or the production of documents or information upon any proceeding, he should promptly inform the Secretary of the Committee of such service and of all relevant facts, including the documents and information requested and any facts that may be of assistance in determining whether such documents or information should be made available; and he should take action at the appropriate time to inform the court or tribunal that issued the process, and the attorney for the party at whose

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instance the process was issued, if known, of the substance of this Part.

(b) Appearance by person served.—Except as disclosure of the relevant information is authorized pursuant to this Part, any person who has information of the Committee and is required to respond to a subpoena or other legal process shall attend at the time and place therein mentioned and decline to disclose such information or give

any testimony with respect thereto, basing his refusal upon this Part. If, notwithstanding, the court or other body orders the disclosure of such information, or the giving of such testimony, the person having such information of the Committee shall continue to decline to disclose such information and shall promptly report the facts to the Committee for such action as the Committee may deem appropriate.