

FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 81-9
January 14, 1981

RULES OF PROCEDURES

Policy Statement Relating to the Handling of Protested Applications and Technical Amendments Concerning Publication Requirements of Application Notices

TO ALL BANKS, BANK HOLDING COMPANIES
AND OTHERS CONCERNED IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:

The Board of Governors of the Federal Reserve System has adopted a policy statement which outlines procedures for the handling of protested applications to expand bank holding companies, merge financial institutions and for certain other applications which require the Board's approval. The statement is divided into three categories:

- 1) Notice of Applications
- 2) Timeliness of Comments
- 3) Public Meetings

The policy statement applies to applications for which notice is published on or after February 1, 1981.

In this same action, the Board adopted technical amendments to its Rules of Procedures which, in order to improve the effectiveness of newspaper notices of applications, require the use of a standardized form of notice, establish uniformity in the placement of notices and set a time limit on the filing of an application after the first notice is published. Also, these amendments will apply to all applications for which notice is published on or after February 1, 1981.

Enclosed is a copy of the Board's notices as published in the Federal Register. Also enclosed is a copy of the technical amendments to Rules of Procedures to be filed in your Regulations Binder. Please destroy the slipsheet dated October 1979. The policy statement will not be submitted in any other form, so it is suggested that you retain this circular for future reference.

Banks and others are encouraged to use the following incoming WATS numbers in contacting this Bank: 1-800-442-7140 (intrastate) and 1-800-527-9200 (interstate). For calls placed locally, please use 651 plus the extension referred to above.

Any questions concerning the contents of this circular should be addressed to Robert D. Hankins, Director of Applications, of our Holding Company Supervision Department, Ext. 6120.

Additional copies of this material will be made available upon request to the Bank and Public Information Department of this Bank, Ext. 6266.

Sincerely yours,

William H. Wallace

First Vice President

Enclosures

NOTICE OF APPLICATION FOR
[BANK HOLDING COMPANY] or
[ACQUISITION OF BANK BY A
BANK HOLDING COMPANY]
or [MERGER OF BANK HOLDING COMPANIES]

Notice is hereby given by the Applicant (name and location of head office) that it will apply to the Federal Reserve Board pursuant to section 3 of the Bank Holding Company Act for [a bank holding company] or [acquisition of shares of a bank] or [merger with another bank holding company]. The Applicant intends to acquire (number and percent of outstanding) shares of (name of bank or company and location of head office).

The public is invited to submit written comments on this application to the Federal Reserve Board at the Federal Reserve Bank of Dallas, Holding Company Supervision Department, Station K, Dallas, Texas 75222. The comment period on this application will not end before (date-must be no less than 30 days from date of first notice). Call Bettye Ramsey, 214-651-6488, at the Federal Reserve Bank of Dallas, to find out if you have additional time for submitting comments on this application or if you need more information about submitting comments. The Federal Reserve will consider comments, including requests for a public meeting or formal hearing on the application, if they are received by the Federal Reserve Bank during the comment period.

NOTICE OF APPLICATION FOR
[MEMBERSHIP IN THE FEDERAL RESERVE SYSTEM]
or [ESTABLISHMENT OF RELOCATION OF BRANCH]

Notice is hereby given by the Applicant (name and location of head office) that it will apply to the Federal Reserve Board pursuant to the Federal Reserve Act for (membership, relocation or establishment or branch). [The applicant proposes to engage in business at the following location: (street addresses of branches and deposit facilities).]

The public is invited to submit written comments on this application to the Federal Reserve Board at the Federal Reserve Bank of Dallas, Holding Company Supervision Department, Station K, Dallas, Texas 75222. The comment period on this application will end on (date-must be no less than 30 days from the date of the first notice). Call Bettye Ramsey, 214-651-6488, at the Federal Reserve Bank of Dallas, if you need more information about submitting comments. The Federal Reserve will consider comments, including requests for a public meeting or formal hearing on the application, if they are received by the Reserve Bank during the comment period.

NOTICE OF APPLICATION FOR MERGER OF BANKS
[AND ESTABLISHMENT OF BRANCHES]

Notice is hereby given by the Applicant (name and location of head office) that it will apply to the Federal Reserve Board pursuant to the Bank Merger Act to merge with (name and location of head office of bank), [and thereby to establish branches. The Applicant proposes to engage in business at the following locations: (street addresses of branches and deposit facilities of bank to be merged).]

The public is invited to submit written comments on this application to the Federal Reserve Board at the Federal Reserve Bank of Dallas, Holding Company Supervision Department, Station K, Dallas, Texas 75222. The comment period on this application will end (date-must be no less than thirty days from the date of the first notice). Call Bettye Ramsey, 214-651-6488, at the Federal Reserve Bank of Dallas, if you need more information about submitting comments. The Federal Reserve will consider comments, including requests for a public meeting or formal hearing on the application, if they are received during the comment period.

12 CFR Part 262

[Rules of Procedure, Docket No. R-0334]

Rules of Procedure; Notice of Applications; Timeliness of Comments; Informal Hearings

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Statement of Policy.

SUMMARY: This Statement outlines steps taken by the Board to improve the effectiveness of notices of applications required by a company or bank for deposit-taking facilities under the Rules of Procedure. The Statement also emphasizes the Board's strict observance of its rules regarding timeliness of comments and requests for hearing on these applications. Finally, the Statement provides guidelines for holding informal hearings in the form of public meetings on protested applications, particularly those opposed on the basis of an applicant's Community Reinvestment Act record.

EFFECTIVE DATE: This Statement will apply to applications for which notice is published on or after February 1, 1981.

FOR FURTHER INFORMATION CONTACT: Robert E. Mannion, Deputy General Counsel, (202/452-3274) or Bronwen

Mason, Senior Attorney, (202/452-3564), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In 12 CFR Part 262, §§ 262.7 through 262.24 are reserved. 12 CFR Part 262 is amended by adding new § 262.25 to read as follows:

§ 262.7—262.24 [Reserved]

§ 262.25 Policy statement regarding notice of applications; timeliness of comments and guidelines for public meetings.

(a) *Notice of applications.* A bank or company applying to the Board for a deposit-taking facility must first publish notice of its application in local newspapers. This requirement, found in § 262.3(b)(1) of the Board's Rules of Procedure covers applications under the Bank Holding Company Act and Bank Merger Act, as well as applications for membership in the Federal Reserve System and for new branches of State member banks. Notices of these applications are published in newspapers of general circulation in the communities where the applicant intends to do business, as well as the community where its head office is located. These notices are important in calling the public's attention to an applicant's plans and giving the public a chance to comment on these plans. To improve the effectiveness of the notices, the Board is making several changes in its notice procedures.

(1) The Board has adopted standard forms of notice for use by applicants that will specify the exact date on which the comment period on the application ends, which may not be less than thirty calendar days from the date of publication of the first notice. The newspaper forms also provide the name and telephone number of a person at the appropriate Reserve Bank to call to obtain more information about submitting comments. The Board also publishes notice of bank holding company applications for bank acquisitions in the *Federal Register* after the application is accepted for filing, and the Reserve Bank can provide the exact date in which this comment period ends. (This period will not end before the date indicated in the newspaper notice, and ordinarily will end after that date.) Comments received on or before the end of the latest comment period on an application will be regarded as timely. These steps should assist interested members of the public in submitting timely comments that are relevant to the facts the Board must consider.

(2) In addition, each Reserve Bank will publish a weekly list of (i) applications accepted as filed by the Reserve Bank; and (ii) applications for which newspaper notices have been published, submitted to the Reserve Bank for acceptance. Any person or organization may request the list. The Board notes that each Reserve Bank's list will include only applications accepted or submitted with that particular Reserve Bank, and persons or groups should request lists from each Reserve Bank having jurisdiction over applications in which they may be interested. Since the lists will be prepared as a courtesy by the Federal Reserve Banks, and are not intended to replace any formal notice required by statute or regulation, the Reserve Banks and the Board assume no responsibility for errors or omissions.

(3) With respect to applications by bank holding companies to engage in nonbank activities or make acquisitions of nonbank firms, after the Board publishes notice of these applications in the *Federal Register* after the applications are accepted for processing. While these applications are not covered by the notice provisions of § 262.3 of the Board's Rules of Procedure or the provisions of the Community Reinvestment Act, the other provisions of this Statement will apply to such applications. In addition, the weekly lists to be prepared by Reserve Banks will include certain applications by bank holding companies for nonbank acquisitions as they are accepted for processing.

(b) *Timeliness of Comments.* All comments must be received by the Federal Reserve on or before the last date of the comment period specified in the notice. The Board's rules allow it to disregard comments received after the comment period expires. In particular, § 262.3(d) of the Board's Rules of Procedure states that the Board will not consider comments on an application that are not received on or before the expiration of the applicable comment period. Thus, a commenter failing to submit comments on an application within the specified comment period (or any extension) may be precluded from participating in the consideration of the application. In cases where a commenter for good cause is unable to submit its comment within the specified comment period, § 265.2(a)(10) of the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(a)(10)) allows the Secretary of the Board to grant requests for extension of the period. Under this provision, upon receipt of a request *prior* to the expiration of the

comment period, the Secretary may grant a brief extension upon clear demonstration of hardship or other meritorious reason for seeking additional time.

(c) *Public Meetings.* The Board is endorsing an experimental period during which public meetings on protested applications will be held in appropriate cases, particularly those protested on the basis of an applicant's CRA record. Subject to determination by the Federal Reserve, a public meeting may be held upon request of the applicant or a protestant who files a timely protest; or may be instituted by the Federal Reserve. The purpose of the public meetings will be to elicit information and to clarify factual issues related to the application. It should be noted that the convening of public meetings is not intended to preclude private meetings between the parties to resolve differences, and the Board continues to encourage such private negotiations. The Board has adopted the following guidelines to be used for requesting, arranging, and conducting public meetings during the experimental period:

(1) *Requesting a Public Meeting.* A meeting may be requested by a person or organization objecting to the application during the comment period, and by the applicant during the period within which it must respond to comments. In requesting a meeting, the protestant should submit material that meets the following criteria:

(i) It must be in writing and received by the Reserve Bank within the specified comment period.

(ii) It should contain a summary of the specific matters to which the protestant objects and the reasons for each objection.

(iii) It should contain facts and evidence supporting the protest, including any financial, economic or demographic data.

(iv) Where appropriate, it should contain a discussion of any adverse effects on the protestant or the community if the application were to be approved.

(v) It should explain why a public meeting is needed, and why written submissions would not suffice in lieu of a meeting. The protest does not have to be filed in a legal brief or other particular format in order for a public meeting to be granted. The protest will be transmitted by the Reserve Bank to the applicant, and applicant will be allowed ten business days to respond in writing to the protest. Certain personnel designated by the Reserve Bank will be available to assist any member of the

public regarding the types of information generally included in protests, the format generally used by protestants, and any other specific questions about the procedures of the Federal Reserve System regarding protested applications.

(2) *Arranging the Public Meeting.* Public meetings will be arranged and presided over by a representative of the Federal Reserve ("Presiding Officer"). In determining a time and place for the public meeting to be held, the Presiding Officer should take into account such factors as convenience to the parties, the number of people expected to attend the meeting, access to public transportation and possible after-hours security problems. The following time periods will be used as guides in arranging the public meeting:

(i) A public meeting will normally be scheduled no earlier than 10 days and no later than 21 days from the end of the comment period. The Presiding Officer will arrange the meeting within these general time frames to accommodate the schedules of the parties where possible.

(ii) The Presiding Officer will notify the applicant and protestant(s) in writing of the date, time and location of the meeting as soon as possible after it is scheduled.

(iii) At least 7 calendar days prior to the meeting the applicant and protestant(s) should notify the Presiding Officer of the names of all persons wishing to speak on the merits of the application at the public meeting. If time permits, as many of these persons as possible will be authorized by the Presiding Officer to speak.

(iv) Two copies of any exhibits to be presented at the meeting should be sent to the Presiding Officer at least 7 calendar days prior to the meeting. One copy of each exhibit should also be sent to each party at least 7 calendar days prior to the meeting.

(3) *Conducting the Public Meeting.* (i) The Presiding Officer will prepare a written agenda for the public meeting and will provide it to the applicant and protestant(s) at least 3 calendar days prior to the meeting. The agenda will identify the applicant and protestant(s) to the application, confirm the location of the meeting and the time it will commence, list persons authorized to speak at the meeting, and outline the format to be followed during the meeting.

(ii) The proceedings of the public meeting will be transcribed by a court reporter paid for by the Federal Reserve. A copy of the transcript will be available for inspection at the Reserve Bank. Parties may obtain a copy of the transcript by purchasing it from the

stenographer for the stenographer's usual fee.

(iii) In conducting the public meeting the Presiding Officer will have the authority and discretion to ensure that the meeting proceeds in a fair and orderly manner. Generally, the public meeting will be conducted in accordance with the following format:

[A] *Opening remarks by the Presiding Officer.* These remarks are to establish the purpose of the meeting and briefly outline the remainder of the agenda.

[B] *Protestant's Presentation.* A presentation regarding why the application should not be approved, including any data or other materials that further the protestant's position. Persons previously identified to the Presiding Officer may speak concerning the merits of the application at this time.

[C] *Applicant's Presentation.* A presentation regarding why the application should be approved, including any data or other material in support of the application. Persons previously identified to the Presiding Officer may speak concerning the merits of the application at this time.

[D] *Protestant's Rebuttal.*

[E] *Applicant's Rebuttal.*

[F] *Question and Answer Period.*

Questions may be addressed by the protestant(s), and the applicant to one another, as directed by the Presiding Officer.

(iv) The Applicant and Protestant(s) will each be allowed an aggregate of one and one-half hours in which to conduct their presentation and rebuttal, although the time may be divided between presentation or rebuttal as desired by the applicant or protestant(s). If there is more than one protestant, they will normally be expected to apportion the one and one-half hour period among themselves. The question and answer portion of the meeting should not exceed one hour. The total time for the meeting should not exceed four hours.

(v) The Presiding Officer may accept new written material during the meeting if it is relevant, and will allow the opposing party 10 business days to respond in writing to the new material. The conclusion of the public meeting normally marks the close of the public portion of the record, except for the receipt of written comments replying to new material accepted at the public meeting.

The Board has issued this interpretation pursuant to its statutory authority under sections 3(a), 4(c)(3) and 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a), 1843(c)(8), and 1844(b)), section 18 of the Federal Deposit Insurance Act (12 U.S.C.

1828(c)), and sections 9 and 11(i) of the Federal Reserve Act (12 U.S.C. 321 and 248(i)).

By order of the Board of Governors of the Federal Reserve System, December 3, 1980.
Theodore E. Allison,
Secretary of the Board.

[FR Doc. 80-38383 Filed 12-10-80; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 262

[Rules of Procedure, Docket No. R-0335]

Rules of Procedure; Notice of Applications

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final amendment.

SUMMARY: This amendment reflects steps taken by the Board to improve the effectiveness of newspaper notices of applications by a bank or company for deposit-taking facilities required under the Board's Rules of Procedure, by requiring the use of a standardized form of notice; specifying that notices appear in the classified legal notices section of the newspaper; and requiring submission of the application immediately after the first notice is published.

EFFECTIVE DATE: This amendment will apply to all applications for which notice is published on or after February 1, 1981.

FOR FURTHER INFORMATION CONTACT: Robert E. Mannion, Deputy General Counsel (202/452-3274) or Bronwen Mason, Senior Attorney (202/452-3564), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Under § 262.3(b)(1) of the Board's Rules of Procedure ("Rules"), a bank or company applying to the Board for a deposit-taking facility must first publish notice of its application in local newspapers. This requirement covers applications under the Bank Holding Company Act and Bank Merger Act, as well as applications for membership in the Federal Reserve System and for new branches of State member banks. Notices of these applications are published in newspapers of general circulation in the communities where the applicant intends to do business, as well as the community where its head office is located. These notices are important in calling the public's attention to an applicant's plans and giving the public a chance to comment on these plans. The Board is making several changes in its

notice procedures to improve the effectiveness of the notices.

The Board has amended its Rules to require the notices to be published in the form prescribed by the Board. The approved standardized newspaper notices are attached as Exhibits 1, 2, and 3 to this notice. Using these notices, applicant's must specify the exact date on which the comment period on the application ends (which may not be less than thirty calendar days from the date of publication of the first notice). The newspaper notices will also provide the name and telephone number of a person at the appropriate Reserve Bank to call to obtain more information about submitting comments. The Board has also amended to regulation to require that the newspaper notices appear in the classified legal notices section of the newspaper. While most applicants currently publish their notices in this fashion, adoption of this requirement is intended to promote uniformity of the placement of required newspaper notices so that they may be identified easily by interested persons.

The regulation provides that the newspaper notices must be published before the application could be filed with the Reserve Bank. In adopting this provision, the Board apparently believed that the newspaper notices would immediately precede the submission of an application and its acceptance by the Reserve Bank. It has been the Board's experience, however, that in numerous instances applicants have allowed a substantial period of time to elapse between the publication of notice and the submission of a final application to the Reserve Bank. In this situation the comment period specified in the newspaper notice may end before a person interested in commenting has an opportunity to examine the application. Moreover, it has been the Board's policy since the institution of the notice requirements that notices published more than 90 days prior to the submission of the application are "stale". Thus, as the result of the delay in submitting the application notices often become "stale", and must be republished at the applicant's expense.

In order to remedy these difficulties and to effectuate its original intent, the Board has amended its Rules. The amendment requires that the applicant submit its application to the Reserve Bank, together with a copy of the notice as it appeared in the newspaper, between the publication of the first and second notice. The amendment also provides that the notice may not precede acceptance of the application

by the Reserve Bank by more than ninety days.

The provisions of 5 U.S.C. 553 relating to notice and public participation have not been followed in connection with adoption of these amendments because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirements of that section. The Board's expanded rulemaking procedures (44 FR 3,957 (1979)) have not been followed because the amendments are technical in nature.

This action is taken pursuant to its authority under section 3(a) and 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a) and 1844(b)), section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), and sections 9 and 11(i) of the Federal Reserve Act (12 U.S.C. 321 and 248(i)).

Accordingly, in § 262.3(b) of the Board's Rules of Procedure, subparagraph (1) is revised to read as follows:

§ 262.3 Applications.

(b) *Notice of applications.* (1) In the case of applications,

(i) For membership in the Federal Reserve System where such membership would confer Federal deposit insurance on a bank,

(ii) By a State member bank for the establishment of a domestic branch or other facility that would be authorized to receive deposits,

(iii) By a State member bank for the relocation of a domestic branch office,

(iv) For merger, consolidation, or acquisition of assets or assumption of liabilities, if the acquiring, assuming, or resulting bank is to be a State member bank,

(v) To become a bank holding company, and

(vi) By a bank holding company to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company,

the applicant shall cause to be published on the same day of each of two consecutive weeks a notice in the form prescribed by the Board. The notice shall be placed in the classified advertising legal notices section of the newspaper, and the first notice may appear no more than ninety calendar days prior to acceptance by the Reserve Bank of the application. The notice must provide an opportunity for the public to give written comment on the application to the appropriate Federal Reserve Bank for at least thirty days after the date of publication of the first notice. In addition, between publication of the first and second notice, the applicant

shall submit to the appropriate Reserve Bank for acceptance copies of the application, together with a copy of the notice as it appeared in the newspaper. Such notice shall be published in a newspaper of general circulation in (A) the community in which the head office of the bank is or is to be located in the case of an application for membership that would confer deposit insurance, (B) the community or communities in which the head office of the bank and the proposed branch or other facility (other than an electronic funds transfer facility) are located in the case of an application for the establishment of a domestic branch or other facility that would be authorized to receive deposits, (C) the community or communities in which the head office of the bank, the office to be closed, and the office to be opened are located in the case of an application for the relocation of a domestic branch office, (D) the community or communities in which the head office of each of the banks to be party to the merger, consolidation, or acquisition of assets or assumption of liabilities are located in the case of an application by a bank for merger, consolidation, or acquisition of assets or assumption of liabilities, or (E) the community or communities in which the head offices of the largest subsidiary bank, if any, or an applicant and of each bank, shares of which are to be directly or indirectly acquired, are located in the case of applications under section 3 of the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, December 3, 1980.

Theodore E. Allison,
Secretary of the Board.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
RULES OF PROCEDURE

AMENDMENTS

1. Section 262.3(g)(4) is amended by deleting the words, "Each such Order is published in the Federal Register."

2. Effective November 6, 1978, section 262.3 is amended by adding a new subsection (b) to read as follows:

SECTION 262.3 — APPLICATIONS

* * * * *

(b) **Notice of applications.** (1) In the case of applications,

(i) for membership in the Federal Reserve System where such membership would confer Federal deposit insurance on a bank,

(ii) by a State member bank for the establishment of a domestic branch or other facility that would be authorized to receive deposits,

(iii) by a State member bank for the relocation of a domestic branch office,

(iv) for merger, consolidation, or acquisition of assets or assumption of liabilities, if the acquiring, assuming, or resulting bank is to be a State member bank,

(v) to become a bank holding company, and

(vi) by a bank holding company to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company,

the applicant shall, prior to filing such application, cause to be published on the same day of each of two consecutive weeks a notice containing the name of the applicant or applicants, the subject matter of the application, the location at which the applicant proposes to engage in business, and an invitation to the public to give written comment upon the application to the appropriate Federal Reserve Bank no later than thirty days after the date of publication of the first notice. Such notice shall be published in a newspaper of general circulation in (A) the community in which the head office of the bank is or is to be located in the case of an application for membership that would con-

fer deposit insurance, (B) the community or communities in which the head office of the bank and the proposed branch or other facility (other than an electronic funds transfer facility) are located in the case of an application for the establishment of a domestic branch or other facility that would be authorized to receive deposits, (C) the community or communities in which the head office of the bank, the office to be closed, and the office to be opened are located in the case of an application for the relocation of a domestic branch office, (D) the community or communities in which the head office of each of the banks to be party to the merger, consolidation, or acquisition of assets or assumption of liabilities are located in the case of an application by a bank for merger, consolidation, or acquisition of assets or assumption of liabilities, or (E) the community or communities in which the head offices of the largest subsidiary bank, if any, of an applicant and of each bank, shares of which are to be directly or indirectly acquired, are located in the case of applications under section 3 of the Bank Holding Company Act.

(2) In addition to the foregoing notice, an applicant, in the case of an application to relocate a domestic branch office or other facility that would be authorized to receive deposits, shall post in a conspicuous public place in the lobby of the office to be closed a notice containing the information specified in section 262.3(b)(1). Such notice should be posted on the date of the first notice required by section 262.3(b)(1).

* * * * *

3. Effective October 19, 1978, section 262.3 is amended by adding a new subsection 262.3 (d) to read as follows:

SECTION 262.3 — APPLICATIONS

* * * * *

(d) **Submission of comments and requests for hearing.** The Board will consider a comment or request for hearing with respect to an applica-

For this Regulation to be complete retain:
1) Regulation pamphlet dated April 1979.
2) This slip sheet. (Destroy October 1979 slip sheet.)

tion only if it is in writing and is sent to the Secretary of the Board or the appropriate Federal Reserve Bank on or before the date prescribed in the *Federal Register* notice with respect to applications filed under sections 3 or 4 of the Bank Holding Company Act or, in the case of other applications, the date specified in the newspaper notice with respect to such applications, or where no such date is prescribed, on or before the thirtieth day after the date such notice is first published. Similarly, the Board will consider comments on an application from the Attorney General or a banking supervisory authority to which notification of receipt of an application has been given, only if such comment is received by the Secretary of the Board within thirty days of the date of the letter giving such notification. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing. In every case where a timely comment or request for hearing is received as provided herein, a copy of such comment or request shall be forwarded promptly to the applicant for its response. The Board will consider the applicant's response only if it is in writing and sent to the Secretary of the Board on or before the tenth day after the date of the letter by which it is forwarded to the applicant. At the same time it transmits its response to the Board, the applicant should transmit a copy of its response to the person or supervisory authority making such comment or requesting a hearing. Notwithstanding the foregoing, the Board may, in its sole discretion and without notifying the parties, take into consideration the substance of comments with respect to an application, (but not requests for hearing) that are not received within the time periods provided herein.

* * * * *

4. Effective October 19, 1978, section 262.3 is amended by adding a new subsection 262.3 (i) to read as follows:

SECTION 262.3 — APPLICATIONS

* * * * *

(i) **Reconsideration of certain Board actions.** The Board may reconsider any action taken by it on an application upon receipt by the Secretary of the Board of a written request for reconsideration from any party to such application, on or before the fifteenth day after the effective date of the Board's action. Such request should specify the reasons why the Board should reconsider its action, and present relevant facts that, for good

cause shown, were not previously presented to the Board. Within ten days of receipt of such a request, the General Counsel, acting pursuant to delegated authority (12 C.F.R. 265.2 (b) (7)), shall determine whether or not the request for reconsideration should be granted, and shall notify all parties to the application orally by telephone of this determination within ten days. Such notification will be confirmed promptly in writing. In the exercise of this authority, the General Counsel shall confer with the Directors of other interested Divisions of the Board or their designees. Notwithstanding the foregoing, the Board may, on its own motion if it deems reconsideration appropriate, elect to reconsider its action with respect to any application, and the parties to such application shall be notified by the Secretary of the Board of its election as provided above. If it is determined that the Board should reconsider its action with respect to an application, such action will be stayed and will not be final until the Board has acted on the application upon reconsideration. If appropriate, notice of reconsideration of an application will be published promptly in the *Federal Register*.

* * * * *

As an incident to these amendments, paragraph 262.3(g)(5) is withdrawn. Subsections (b), (c), (d), (e), (f), (g), and (h) are redesignated (c), (e), (f), (g), (h), (j), and (k).

5. Effective October 24, 1979, section 262.3 is amended by deleting subparagraph (k)(5) and revising subparagraph (c) to read as follows:

SECTION 262.3 — APPLICATIONS

* * * * *

(c) **Filing of applications.** Any application should be sent to the Federal Reserve Bank of the district in which the head office of the parent banking organization is located, except as otherwise specified on application forms, and that Bank will forward it to the Board when appropriate; however, in the case of a foreign bank holding company, as defined in section 225.4(g) of this chapter, applications shall be sent to the Federal Reserve Bank of the district in which the operations of the organization's subsidiary banks are principally conducted. In the case of a foreign banking organization that is not a bank holding company but that has one or more branches, agencies, or commercial lending companies in any State of the United States or the District of Columbia, applications shall be sent to the Federal Reserve Bank of the district in which the organization's banking assets are the largest. Applications of a member bank subsidiary, however, should be filed with the Reserve Bank of the district in which the member bank is located.

6. Section 262.3 is amended effective for all applications for which notice is published on or after February 1, 1981. The amended paragraph 262.3(b)(1) follows:

SECTION 262.3—APPLICATIONS

* * * * *

(b) **Notice of applications.** (1) In the case of applications,

(i) for membership in the Federal Reserve System where such membership would confer Federal deposit insurance on a bank,

(ii) by a State member bank for the establishment of a domestic branch or other facility that would be authorized to receive deposits,

(iii) by a State member bank for the relocation of a domestic branch office,

(iv) for merger, consolidation, or acquisition of assets or assumption of liabilities, if the acquiring, assuming, or resulting bank is to be a State member bank,

(v) to become a bank holding company, and

(vi) by a bank holding company to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company,

the applicant shall cause to be published on the same day of each of two consecutive weeks a notice in the form prescribed by the Board. The notice shall be placed in the classified advertising legal notices section of the newspaper, and the first notice may appear no more than ninety calendar days prior to acceptance by the Reserve Bank of the application. The notice must provide an opportunity for the public to give written comment on

the application to the appropriate Federal Reserve Bank for at least thirty days after the date of publication of the first notice. In addition, between publication of the first and second notice, the applicant shall submit to the appropriate Reserve Bank for acceptance copies of the application, together with a copy of the notice as it appeared in the newspaper. Such notice shall be published in a newspaper of general circulation in (A) the community in which the head office of the bank is or is to be located in the case of an application for membership that would confer deposit insurance, (B) the community or communities in which the head office of the bank and the proposed branch or other facility (other than an electronic funds transfer facility) are located in the case of an application for the establishment of a domestic branch or other facility that would be authorized to receive deposits, (C) the community or communities in which the head office of the bank, the office to be closed, and the office to be opened are located in the case of an application for the relocation of a domestic branch office, (D) the community or communities in which the head office of each of the banks to be party to the merger, consolidation, or acquisition of assets or assumption of liabilities are located in the case of an application by a bank for merger, consolidation, or acquisition of assets or assumption of liabilities, or (E) the community or communities in which the head offices of the largest subsidiary bank, if any, or an applicant and of each bank, shares of which are to be directly or indirectly acquired, are located in the case of applications under section 3 of the Bank Holding Company Act.

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