

FEDERAL RESERVE BANK  
OF NEW YORK

[ Circular No. 8971 ]  
December 10, 1980

RULES OF PROCEDURE

Policy Statement Regarding the Handling of Protested Applications

To All Member Banks and Bank Holding Companies,  
and Others Concerned, in the Second Federal Reserve District:

The Board of Governors of the Federal Reserve System has announced the adoption of a statement of policy for the handling of protested applications. The following is quoted from the Board's announcement:

The policies set forth in the statement are intended to provide better notice to the public of applications to expand bank holding companies or merge financial institutions, or for certain other applications requiring the Board's approval, and to provide for public meetings where appropriate and generally improve on existing procedures.

The Board also adopted technical amendments to its Rules of Procedure concerning notice requirements to give effect to certain provisions of the policy statement.

It is expected that these procedures will be of assistance to individuals, groups or others desiring to protest applications that come before the Board, and to applicants whose applications are protested.

Printed on the following pages is the text of the Board of Governors' statement. A printed copy of the amendments to the Board's Rules of Procedure, giving effect to certain provisions of the policy statement, will be sent to you as soon as it is available.

Questions regarding the statement may be directed to our Consumer Affairs and Bank Regulations Department (Tel. No. 212-791-5914).

ANTHONY M. SOLOMON,  
*President.*

FEDERAL RESERVE SYSTEM

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 under section 262.3(b) of 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 applications found in section 262.3(d) of the Rules of Procedure. 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 262, sections 262.7 through 262.24 are reserved. 12 CFR 262 is amended by adding new section 262.25 to read as follows:

§ 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 section 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.

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.

In addition, each Reserve Bank will publish a weekly list of (1) applications accepted as filed by the Reserve Bank; and (2) 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.

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 section 262.3 of the Board's Rules of Procedures 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. TIMELENESS 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, section 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, section 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:

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:

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

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

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

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

(e) 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.

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:

(a) 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.

(b) 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.

(c) 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.

(d) 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.

Conducting the Public Meeting. 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.

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.

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.

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.

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 responding 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)(8) 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.

(signed) Theodore E. Allison

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Theodore E. Allison  
Secretary of the Board

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