

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. **10660**
September 22, 1993]

**PUBLICATION REQUIREMENTS
FOR NOTICE OF CERTAIN APPLICATIONS**

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

The Board of Governors of the Federal Reserve System has changed the publication requirements for notice of applications under the Federal Deposit Insurance Act for the merger, consolidation, or acquisition of assets or the assumption of liabilities, if the acquiring, assuming, or resulting bank will be a state member bank. With regard to such applications filed on or after September 30, 1993, notice must be published at least three times, and the last publication must appear at least 30 days after the first publication.

Printed on the reverse side of this circular is the text of the Board's official notice of this action, as published in the *Federal Register* of September 14. Questions on this matter may be directed to Jay B. Bernstein, Staff Director, Domestic Banking Applications Division (Tel. No. 212-720-5861).

WILLIAM J. McDONOUGH,
President.

(OVER)

FEDERAL RESERVE SYSTEM

12 CFR Part 262

[Docket No. R-0810]

Rules of Procedure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This regulation changes the publication requirements for notice of applications under the Federal Deposit Insurance Act for the merger, consolidation, or acquisition of assets or the assumption of liabilities, if the acquiring, assuming, or resulting bank will be a state member bank. This change will require that notice be published on at least 3 occasions to conform the regulation to the statutory requirements. In addition, the Board is making technical changes to the regulation.

DATES: This rule is effective September 30, 1993. This rule applies to applications filed on or after September 30, 1993.

FOR FURTHER INFORMATION CONTACT: Sidney M. Sussan, Assistant Director, (202-452-2638), Beverly Evans, Supervisory Financial Analyst (202-452-2573), Division of Banking Supervision and Regulation; Patrick J. McDivitt, Attorney (202-452-3818), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202-452-3544), Board of Governors of the Federal Reserve System, 20th and C Street NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 18(c) of the Federal Deposit Insurance Act, 12 U.S.C. 1828(c), generally requires that public notice be given when a state member bank seeks to merge or consolidate with a bank or institution, assume certain liabilities including the liability to pay deposits, or transfer assets to a noninsured bank or institution. Section 18(c)(3)(C) requires that the notice be published "at appropriate intervals" during a period of at least thirty days, unless the Board determines that the Board must act immediately in order to prevent the probable default of a state member bank. Currently, the Rules of Procedure of the Board, 12 CFR 262.3(b)(1), require that

notice be published only one time.

In light of the statutory language, the Board believes that it is appropriate to revise the notice requirements relating to applications under section 18(c). Accordingly, the Board is amending § 262.3 to require that notice of applications subject to section 18(c) be published at least three times at appropriate intervals and that the last publication appear at least thirty days after the first publication. Other existing procedural requirements relating to publication of notice of these applications will not be affected by this amendment.

The Board is also making technical changes to the regulation to correct a citation, to renumber certain provisions as a result of the change in publication requirements, and to correct a typographical error.

Notice and Public Participation

The provisions of 5 U.S.C. 553 relating to notice and public participation have not been followed in connection with the adoption of this amendment because the changes are technical or result from requirements mandated by statute. For these reasons, the Board finds good cause for determining, and so determines, that notice and public participation are unnecessary and contrary to the public interest.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act the Board certifies that the amendment will not have a significant economic impact on a substantial number of small entities. The change in publication requirements is not significant as the amendment will require only two additional notices of publication and the economic impact of the additional publications will be minimal.

List of Subjects in 12 CFR Part 262

Administrative practice and procedure.

For the reasons set forth in the preamble, the Board is amending 12 CFR part 262 as follows:

PART 262—RULES OF PROCEDURE

1. The authority citation for part 262 is revised to read as follows:

Authority: 5 U.S.C. 552, 12 U.S.C. 321, 1828(c), and 1842.

2. In § 262.3, paragraph (b)(1)(i)(D) is removed, and paragraphs (b)(1)(i)(E) and (F) are redesignated as paragraphs (b)(1)(i)(D) and (E), respectively, in paragraph (b)(2) the first sentence, the word "applicaiton" is corrected to read "application", a new paragraph (b)(3) is added, and paragraph (j), introductory text, is revised to read as follows:

§ 262.3 Applications.

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(b) * * *

(3) In the case of an application for a merger, consolidation, or acquisition of assets or assumption of liabilities, if the acquiring, assuming, or resulting bank is to be a State member bank, the applicant shall cause to be published notice in the form prescribed by the Board. The notice shall be published in a newspaper of general circulation in the community or communities in which the head office of each of the banks to be a party to the merger, consolidation, or acquisition of assets or assumption of liabilities is located. The notice shall be published on at least three occasions at appropriate intervals. The last publication of the notice shall appear at least thirty days after the first publication. 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 the first publication of the notice. Within seven days of publication of notice for the first time, the applicant shall submit its application to the appropriate Reserve Bank for acceptance, along with a copy of the notice. If the Reserve Bank has not accepted the application as complete within ninety days of the date of the first publication of the notice, the applicant may be required to republish notice of the application.

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(j) * * * The following types of applications require procedures exclusive of, or in addition to, those described in paragraphs (i)(1) through (5) of this section.

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By order of the Board of Governors of the Federal Reserve System, September 7, 1993.

William W. Wiles,
Secretary of the Board.
[FR Doc. 93-22262 Filed 9-13-93; 8:45 am]
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