

**Federal Reserve Bank of San Francisco**

**Information Availability Policy**

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# INFORMATION AVAILABILITY POLICY

## GENERAL PROVISIONS

### 1.0 POLICY STATEMENT

The Freedom of Information Act (5 U.S.C. § 552) (“FOIA”) requires that agencies of the Federal government make their records available to the public, unless the records are specifically exempted by one or more provisions in FOIA.

The Federal Reserve Bank of San Francisco is not an “agency” as that term is defined in FOIA and is, therefore, not subject to its provisions. The Bank, nonetheless, believes that transparency and greater openness are essential to promote better understanding of the Bank’s mission and actions, and to maintain public trust. Accordingly, the Bank has determined that it will generally comply with the spirit of FOIA as described in this document. This Policy provides for disclosure of Bank records, unless such records fall within one of several exemptions set forth below.

Nothing contained in this Policy is intended to affect the informational services that are routinely provided by the Bank, or any other obligations to disclose information pursuant to law (*e.g.*, Section 1103 of the Dodd-Frank Wall Street Reform and Consumer Protection Act) or other legal process.

### 2.0 DEFINITIONS

2.1 “Bank” means the Federal Reserve Bank of San Francisco and its offices.

2.2 “Board” means the Board of Governors of the Federal Reserve System.

2.3 “Day” means a business day for the Bank.

2.4 “FOMC” means the Federal Open Market Committee of the Board.

2.5 “Records of the Bank” means existing materials such as rules, written opinions, memoranda, letters, reports, accounts, emails, policies, and other papers or documents, including any such materials stored digitally, that are (a) created or obtained by the Bank and (b) under the Bank’s control.

“Records of the Bank” does not include, for example, handwritten notes, personal files of employees, daily calendars and telephone logs not incorporated into a system of records, intellectual property, documents not in existence or that otherwise must be created, and documents which have been disposed of in accordance with law or established Bank procedure.

In addition, “Records of the Bank” does not include records that, while maintained by the Bank, are not in the control of the Bank, including records of the Board,<sup>1</sup> records of the FOMC,<sup>2</sup> records of the U.S. Department of Treasury,<sup>3</sup> and records of other Federal or state agencies. Such records include, but are not limited to, records pertaining to supervisory matters wherein the Bank acts pursuant to authority delegated from the Board, records pertaining to the execution of monetary policy on behalf of the FOMC and, in some instances, records pertaining to the Bank’s activities as fiscal agent for the Treasury. The Bank will not release information/documents of any party for which it serves as agent unless the principal has expressly authorized the disclosure.

2.6 “Search” means a search of the Bank’s official files which are reasonably likely to contain documents of the kind requested.

“Search” does not include research or any other activity which creates rather than retrieves existing documents.

## **PROCEDURE FOR REQUEST**

### **3.0 REQUEST FOR RECORDS OF THE BANK**

3.1 Request Must be in Writing. Any request for Records of the Bank shall be submitted in writing to the General Counsel of the Bank. The Bank may, in its discretion, honor an oral or telephone request, but if the requester is dissatisfied with the Bank’s response and wishes to appeal, the requester must submit a written request which shall be treated as an initial request.

3.2 Form of Request

Each request must contain the following:

- 3.2.1 The name and address of the person filing the request, and a telephone number at which the requester can be reached during business hours;
- 3.2.2 A sufficient description of the records requested so that Bank staff can identify and locate the records without undue difficulty;

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<sup>1</sup> Requests for records of the Board generally must comply with the Board’s Rules Regarding Availability of Information. 12 CFR § 261.1 et seq.

<sup>2</sup> Requests for records of the FOMC generally must comply with the FOMC’s Rules Regarding Availability of Information. 12 CFR § 271.1 et seq.

<sup>3</sup> Requests for records of the Treasury generally must comply with the Treasury’s FOIA regulations. 31 CFR § 1.1 et seq.

- 3.2.3 The name of any pending litigation to which the request relates, and the court and its location; and
- 3.2.4 The agreement of the requester to pay the Bank for any fees owed in accordance with the Fee Schedule contained in Appendix A, or a request for waiver of such fees (see Section 5).
- 3.3 Advance Payment of Fees. The Bank may request that any fees be paid in advance as a condition to further processing of the request.
- 3.4 Improper Request. Any request which does not comply with the requirements of Section 3.2 need not be processed by the Bank. The Bank will advise the requester if the Bank determines that the request is improper.
- 3.5 Response & Determination. In response to a request that satisfies the requirements of section 3.2, an appropriate Search shall be conducted of Records of the Bank in existence as of the date of the request, and a review made of any responsive records located. Within twenty (20) Days after receiving a request that satisfies the requirements of section 3.2, the Bank's General Counsel, after consulting with other appropriate persons as necessary, shall determine whether the records requested will be provided.<sup>4</sup> The requester will be promptly notified in writing of the decision. If the request is denied, in whole or in part, the requester shall be advised of the Bank's request for reconsideration procedure.
- 3.6 Time extension. The Bank's General Counsel may extend the time for responding to any request, but the requester shall be notified in writing of any extension and the reason for the same.
- 3.7 Media Inquiries. In responding to any media inquiry for information or records, Bank employees should contact the Bank's Media Relations Office. Before submitting a request under this policy, media representatives are encouraged to contact the Media Relations Office to determine if the information or records sought are already publicly available.

#### **4.0 REQUEST FOR RECONSIDERATION**

Any person whose request for information is denied, in whole or in part, may file a request for reconsideration with the Bank's Corporate Secretary. Any request for reconsideration must be in writing and must be sent by the requester within ten (10) Days after receipt of notification by the Bank's General Counsel of the denial. In considering a request for reconsideration, the Corporate Secretary may consult with other appropriate persons as necessary, and shall make a determination with respect to the request within twenty (20)

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<sup>4</sup> The Bank may choose to respond to a request under this Policy by publicly releasing the responsive information through the Bank's public website or by other means.

Days after the request is received. The requesting party shall be notified of the Bank's decision.

## **5.0 FEE WAIVER**

5.1 Fee Waiver. The Bank, in its discretion, may grant a fee waiver if it determines that the disclosure of the requested information is in the public interest because it contributes significantly to the public understanding of the operations or activities of the Bank, and the disclosure is not in the commercial interest of the requester.

### **5.2 Form of Request for Fee Waiver**

A request for a fee waiver must include the following:

5.2.1 A clear statement of the requester's interest in the requested documents and the basis for the requester's claim that a waiver of the fee is appropriate;

5.2.2 The use proposed for the document(s) and whether the requester will derive a benefit, monetary or otherwise, from such use;

5.2.3 A statement of how the public will benefit from the information; and

5.2.4 If specialized use of the information requested is contemplated, a statement of the requester's relevant qualifications which would justify specialized use.

5.3 Minimum Fees Waived. Fees that total less than twenty-five dollars (\$25.00) will automatically be waived.

## **DISCLOSURE OF RECORDS**

### **6.0 RECORDS SUBJECT TO DISCLOSURE**

6.1 Unless otherwise exempt, all Records of the Bank shall be made available upon request, pursuant to the procedures and exceptions in this Policy.

6.2 Pursuant to the Board's Rules Regarding Availability of Information (12 C.F.R. Part 261), the public portion of applications filed under the Bank Holding Company Act, of notices filed under the Change in Bank Control Act, and of other reports filed in connection with the Bank's supervision of depository institutions, will be disclosed upon request.

A request for any of the foregoing need not be directed to the Bank's General Counsel and may be made to the Bank's Bank Supervision & Regulation Division for applications and notices, and to the Bank's Statistics Division for regulatory reports.

## 7.0 RECORDS EXEMPT FROM DISCLOSURE

- 7.1 The Bank may, in its sole discretion, decline to make available certain records in accordance with the exemptions set forth in Section 7.2.
- 7.2 The following categories of records are exempt from disclosure under this Policy:
- 7.2.1 *Exemption 1:* Those records specifically authorized by an Executive Order to be kept secret in the interest of national defense or foreign policy;
  - 7.2.2 *Exemption 2:* Those records related solely to the internal personnel rules and practices of the Bank;<sup>5</sup>
  - 7.2.3 *Exemption 3:* Those records specifically exempted from disclosure by statute or regulation of the Board;
  - 7.2.4 *Exemption 4:* Those records containing trade secrets and privileged or confidential commercial or financial information obtained from a person or organization;
  - 7.2.5 *Exemption 5:* Inter-department or intra-department memoranda, notes or letters consisting of analysis, minutes, opinions or recommendations and including those records that are privileged and confidential attorney work product, attorney-client communications, pre-decisional, or otherwise privileged and confidential;
  - 7.2.6 *Exemption 6:* Personnel and medical files and similar files or information the disclosure of which could constitute a clearly unwarranted invasion of personal privacy;
  - 7.2.7 *Exemption 7:* Those records that are related to the security procedures of this Bank or are investigatory records compiled for law enforcement or security purposes;
  - 7.2.8 *Exemption 8:* Those records contained in or related to examination, operating, or condition reports related to the regulation or supervision of financial institutions (to the extent such records are deemed to be Records of the Bank);
  - 7.2.9 *Exemption 9:* Those records related to specific extensions of credit made by the Bank;<sup>6</sup>

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<sup>5</sup> In addition, note that the Privacy Act (5 U.S.C. § 552a) generally prohibits government agencies from disclosing information about individuals contained in systems of records absent permission of those individuals. It is the Bank's policy to withhold information of the kind that government agencies may not disclose under the Privacy Act.

- 7.2.10 *Exemption 10:* Those records contained in statements of account or which reflect entries made to any account maintained at the Bank;
- 7.2.11 *Exemption 11:* Those records containing data, formulas or other information used by the Bank in determining the prices to be charged for Federal Reserve services;
- 7.2.12 *Exemption 12:* Except as provided for in Appendix B of this Policy, minutes of meetings, as well as related materials and reports, of the Bank’s Board of Directors (and its committees), Advisory Councils, and management committees; and
- 7.2.13 *Exemption 13:* Any Records of the Bank, the disclosure of which would materially interfere with the Bank’s performance of its responsibilities as mandated by statute or regulation.

## **8.0 REASONABLY SEGREGABLE PORTIONS OF A RECORD**

Any reasonably segregable portion of a record or item of information not otherwise exempt under Section 7 shall be provided to any person after deletion of portions which are not to be disclosed. The term “reasonably segregable portion” means any portion of the records which is not exempt from disclosure and which after deletion of the exempt material still conveys meaningful information which is not misleading.

## **9.0 BANK’S DISCRETION TO DISCLOSE EXEMPT RECORDS**

- 9.1 If the disclosure of the record is not prohibited by law, certain records which are exempt from disclosure may nonetheless be disclosed in the Bank’s discretion.
- 9.2 The fact that the Bank discloses otherwise exempt records in a specific instance shall not be construed as a waiver of the right to refuse to disclose similar records under the same or substantially similar circumstances in the future.

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<sup>6</sup> This Policy shall not abrogate nor otherwise override the disclosure requirements related to the Bank’s lending activities set forth in the Dodd-Frank Wall Street Reform & Consumer Protection Act.

**APPENDIX A**

**10.0 FEE SCHEDULE**

Duplication:

Photocopy, per standard page.....	\$0.10
Paper copies of microfiche, per frame.....	0.10
Duplicate microfiche, per microfiche.....	0.30

Search and Review:

Clerical/ Technical, hourly rate.....	\$21.00
Professional/Supervisory, hourly rate .....	30.00
Manager/Senior Professional, hourly rate....	48.00

Computer Search and Production:

Operator search time, hourly rate.....	\$25.00
Compact disc.....	5.00
PC or mainframe computer output.....	Actual Cost



## **APPENDIX B**

### **Policy on Availability of Historical Records of the Board of Directors of the Federal Reserve Bank of San Francisco ("Historical Records Policy")**

The Federal Reserve Bank of San Francisco will make available selected historical records of the Board of Directors for the purpose of providing information that is valuable for research into Federal Reserve monetary and credit policymaking matters and is not available from other sources.

#### **Historical Board of Directors Records Available Under the Historical Records Policy**

Generally, the records available under the Historical Records Policy will be the minutes of Board of Directors meetings, those portions of minutes of executive committee meetings pertaining to credit and monetary policy matters, and minutes of Branch Board meetings. The historical period for board of directors meeting minutes will be defined as the period from the creation of the Bank up to 30 years prior to the date of the request for the records.<sup>7</sup>

Records of the Bank's Board of Directors or Branch Boards relating to the Bank's internal operations are generally not subject to availability or disclosure under the Historical Records Policy.

#### **Redactions**

The Bank, in its discretion, may redact the historical board records prior to granting access to any individual to exclude information that: (1) relate to ongoing or prospective litigation, (2) relate to supervisory information about financial institutions that was and remains confidential, (3) if made available, would compromise the security of individuals or institutions, including the Bank, (4) contain sensitive personally identifiable information about individuals, and (5) are confidential, sensitive or the disclosure of which would interfere with the Bank's performance of its responsibilities, all as so deemed by the Bank.

#### **Access to Historical Board of Director Records**

Individuals requesting access to the historical board records must be 18 years of age or older and shall provide a statement explaining the topic of his/her research. The Bank will review such requests and may require that individuals sign an access agreement prior to granting access to the historical board records. Due to archival and other considerations, the Bank, in its sole discretion, may grant the requesting party access to the records solely in a secure environment on the Bank's premises, and in such cases the Bank will not provide copies of the records to the requesting party.

[Revised April 2016]

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<sup>7</sup> The 30-year historical period is generally consistent with the period in which federal agencies transfer records to the National Archives.