

May 16, 1975

To: Federal Open Market Committee      Subject: Freedom of Information  
Act suit against the Federal Open  
From: Messrs. O'Connell & Hawke      Market Committee

FOR INFORMATION ONLY

The Federal Open Market Committee has been served with a summons and complaint in the case of David R. Merrill, et. al. v. Federal Open Market Committee of the Federal Reserve System (D.D.C., No. 75-0736).

This suit challenges the Committee's response, contained in Governor Holland's letter of April 23, 1975, to Plaintiff's request, pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), for access to: (a) records of Committee policy actions taken by the Committee at its meetings in January and February, 1975, including instructions to the Open Market Account Manager, and (b) memoranda of discussion of the referenced meetings. The Committee denied Plaintiff's request for access to the memoranda of discussion, citing the intra-agency memoranda exemption of the FOIA, 5 U.S.C. § 552(b); but the Committee approved Plaintiff's request for access to records of policy actions, subject to the 45 day deferred availability provision of Part 271.5(a) of the Committee's Rules Regarding Availability of Information 12 C.F.R. § 271.5(a).

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Plaintiff claims that the Committee should have disclosed the memoranda of discussion and should have immediately disclosed the records of policy actions. He asks the Court to order disclosure of the memoranda, to declare that 12 C.F.R. § 271.5 is an invalid regulation, and to enjoin future enforcement of that regulation.

Staff are working with the Department of Justice to prepare the Committee's defense to this suit.