

Proposal: 1665 (7100-AF51) Rules Regarding Availability of Information

Description:

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Comment ID: 134188

From: Inner City Press / Fair Finance Watch, Matthew Lee

Proposal: 1665 (7100-AF51) Rules Regarding Availability of Information

Subject: Rules Regarding Availability of Information

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Comments:

NONCONFIDENTIAL // EXTERNAL

June 15, 2019

Via e-mail to regs .comments [at] federalreserve [dot] gov

Board of Governors of the Federal Reserve System

Attn: Governors, Ann E. Misback, Secretary

20th Street and Constitution Avenue NW

Washington, DC 20551

Re: First Comment on Docket No. R-1665 and RIN No. 7100 AF 51

Dear Governors and Ann E. Misback, Secretary:

On behalf of Inner City Press, a frequent requester to the Federal Reserve Board (FRB) and other agencies under the Freedom of Information Act (FOIA), and in my personal capacity, this is a first comment on the proposed revisions to the FRB's proposed rulemaking (proposal) that would amend the Board's Rules Regarding Availability of Information (Board's Rules).

As a practitioner what is most disappointing about this rulemaking is that the FRB has not even proposed to address a major problem raised to it, including to Governor Lael Brainard earlier this year: that the FRB routinely delays responding to FOIA requests and even frivolous requests for confidential treatment by applicants for regulator approval under AFTER the Board has approved contested merger applications.

As Inner City Press asked Governor Brainard, how does this FRB failure not incentivize applicant banks to make overbroad requests for confidential treatment of their applications, responses to public comment and response to FRB Additional Information requests, knowing that there is no repercussion nor commitment by the FRB to address the overbroad withholding request until after their applications are approved?

Given the FRB's legal duty to consider public comments on mergers, including comments informed by what the applicant banks actually submit, the FRB must address this problem in this rulemaking.

Overall, the FRB not only denied expedited processing of Inner City Press' request for FRB records concerning its actions and role in the Bangladesh Bank hack and case - it has refused to respond to an appeal of its constructive denial of access to any records, after months, see below incorporated herein by reference. This too must be addressed.

For now, we also note the potential abuse, shown most recently by the FRB's sister agency the OCC, that allowing the agency to do nothing to begin collecting records as long as it disputes a fee waiver request. The OCC is still disputing a fee waiver request for the submissions of WSFS for approval to acquire Beneficial in Philadelphia, long after the OCC (like

the FRB) approved the Application.

We may have further comment but wished the raise the above at the earliest possible time in the process to ensure that the FRB belatedly address the issue(s).

Thank you for your attention.  
Matthew Lee, Executive Director

Inner City Press / Fair Finance Watch  
paste - incorporated by reference along with underlying request(s) in the FRB's possession:  
From: Matthew R. Lee, Inner City Press  
Date: Tue, May 21, 2019 at 2:05 PM  
Subject: FOIA appeal of FRB's constructive denial of Feb 17 FOIA request about Bangladesh Bank, nothing since April 2, SDNY today  
To: FOIA-Appeals@frb.gov, office-of-the-secretary [office-of-the-secretary@frb.gov]  
May 21, 2019

FRB Governor covering FOIA appeals:  
Information Disclosure Section, Board of Governors of the Federal Reserve  
20th & Constitution Avenue, NW, Washington, DC 20551  
FOIA APPEAL of constructive denial of FOIA Request No. F-2019-00095

Dear FRB Governor covering FOIA appeals:  
This is an appeal of what is now the constructive denial of Inner City Press' and my Feb 17, 2019 FOIA request for "records regarding the Federal Reserve System's [role] including the FRBNY's role in what is known as the Bangladesh Bank hack or cyber heist and assistance provided to Bangladesh Bank and investigative authorities since the heist, including but limited to in connection with the SDNY case Bangladesh Bank v Rizal Commercial Banking Corp et al, U.S. District Court, Southern District of New York, No. 19-00983."

First, the FRB denied the request for expedited processing, finding no threat of physical harm (??) and also reciting and presumably denying under this standard: "[t]he requester is a representative of the news media ... and there is urgency to inform the public concerning actual or alleged Board activity."

Still, the Fed in further extending its time said there would be response by April 2. There has been none, nothing at all.

Today in the SDNY counsel for Bangladesh Bank directly referred to the Federal Reserve. The Fed's delay, contrasted to the fast if bad faith turn around on Inner City Press' BB&T money laundering enforcement action termination FOIA, is in this context unacceptable, even a cover up.

This is an appeal. The FRB should provide an explanation of nothing since April 2, and the long ago requested documents.

Please confirm receipt, thank you in advance,  
Matthew Lee, Esq.

Executive Director

Inner City Press/Fair Finance Watch[/office-of-the-secretary@frb.gov]/[foia-appeals@frb.gov]