

From: [Michael Ravnitzky](#)
To: [FOMC-Regs-Comments](#)
Subject: Part 271 Rules Regarding Availability of Information
Date: Wednesday, October 14, 2020 2:07:18 PM

NONCONFIDENTIAL // EXTERNAL

Comments on the proposed Part 271 Rules Regarding Availability of Information

1) Proposed Rule 217.12 (c) (2) says

"A requester who seeks expedited processing must submit a statement, certified to be true and correct, explaining in detail the basis for making the request for expedited processing. For example, under paragraph (c)(1)(ii) of this section, a requester who is not a full-time member of the news media must establish that the requester is a person whose primary professional activity or occupation is information dissemination, though it need not be the requester's sole occupation."

But the word "professional" is not found in the statutory language and has been added as an extra condition in the proposed regulation without statutory justification. There are many requesters, such as citizen-advocates, who are not engaged in a professional activity or occupation, yet still could deserve expedited processing but be denied on the grounds of the unjustified addition to the rule.

The word "professional" should be removed.

2) Proposed Rule 271.16, Section (d) is deficient because it fails to identify the fourth type of requester, which is the "all other requesters" type.

While this fourth category is implied by the rule, the omission in the itemization of fee categories and the potential for ambiguity can cause problems and difficulties. Someone may assume that there are only three categories and that the "all other requesters" category is not as valid a category as the others.

Furthermore, the omission of the All Other Requesters category from 271.16 does not alert the reader that the category is included in Table 1 – Fees at the end of the regulation.

Therefore, the rule should state another item, which is "All Other Requesters: any requester who does not fit the requirements of the other categories, typically a noncommercial individual requester.

3) Proposed Rule 271.16 Section (f) should identify that it is only multiple requests for records on the same or similar subject matter(s) would be considered related for purpose of aggregation.

Otherwise, requesters who submitted several entirely unrelated requests might face unwarranted aggregation.

4) Proposed Rule 271.16 Section (h) is inadequate.

The language offered in the proposed rule says in part: If the Committee fails to comply with the FOIA's time limits in which to respond to a request, the Committee may not charge search fees...

This softens the statutory language. There is no reason to stray from the statute in this instance. In order to reflect the statutory language, this regulatory provision should instead say: "the Committee shall not charge search fees..." This would also avoid staff confusion over whether search fees can or cannot be charged.

5) Table 1 of Proposed Rule 271.16 does not clarify that duplication fees should not be charged for provision of digital records such as a pdf file, unless scanning or duplication is actually required.

6) General Comment: The regulation should clarify that if responsive records are marked as restricted or confidential in some way, such as the markings, Class I (FOMC), Class II (FOMC) or Class III (FOMC), or contain analogous FRB restrictions, and the records are at least five years old, FOMC will review them for public release, with the aid of FRB consultation if necessary, notwithstanding the markings.

Respectfully submitted,

Michael Ravnitzky
Silver Spring, Maryland