

Federal Reserve System

§ 225.16

Reserve Bank or the Board may request additional information necessary to complete the record of an application at any time after accepting the application for processing.

(d) *Action on applications*—(1) *Action under delegated authority.* The Reserve Bank shall approve an application under this section within 30 calendar days after the acceptance date for the application, unless the Reserve Bank, upon notice to the applicant, refers the application to the Board for decision because action under delegated authority is not appropriate.

(2) *Board action.* The Board shall act on an application under this subpart that is referred to it for decision within 60 calendar days after the acceptance date for the application, unless the Board notifies the applicant that the 60-day period is being extended for a specified period and states the reasons for the extension. In no event may the extension exceed the 91-day period provided in §225.16(f). The Board may, at any time, request additional information that it believes is necessary for its decision.

§ 225.16 Public notice, comments, hearings, and other provisions governing applications and notices.

(a) *In general.* The provisions of this section apply to all notices and applications filed under §225.14 and §225.15.

(b) *Public notice*—(1) *Newspaper publication*—(i) *Location of publication.* In the case of each notice or application submitted under §225.14 or §225.15, the applicant shall publish a notice in a newspaper of general circulation, in the form and at the locations specified in §262.3 of the Rules of Procedure (12 CFR 262.3);

(ii) *Contents of notice.* A newspaper notice under this paragraph shall provide an opportunity for interested persons to comment on the proposal for a period of at least 30 calendar days;

(iii) *Timing of publication.* Each newspaper notice published in connection with a proposal under this paragraph shall be published no more than 15 calendar days before and no later than 7 calendar days following the date that a notice or application is filed with the appropriate Reserve Bank.

(2) *FEDERAL REGISTER notice.* (i) *Publication by Board.* Upon receipt of a notice or application under §225.14 or §225.15, the Board shall promptly publish notice of the proposal in the FEDERAL REGISTER and shall provide an opportunity for interested persons to comment on the proposal for a period of no more than 30 days;

(ii) *Request for advance publication.* A bank holding company may request that, during the 15-day period prior to filing a notice or application under §225.14 or §225.15, the Board publish notice of a proposal in the FEDERAL REGISTER. A request for advance FEDERAL REGISTER publication shall be made in writing to the appropriate Reserve Bank and shall contain the identifying information prescribed by the Board for FEDERAL REGISTER publication;

(3) *Waiver or shortening of notice.* The Board may waive or shorten the required notice periods under this section if the Board determines that an emergency exists requiring expeditious action on the proposal, or if the Board finds that immediate action is necessary to prevent the probable failure of an insured depository institution.

(c) *Public comment*—(1) *Timely comments.* Interested persons may submit information and comments regarding a proposal filed under this subpart. A comment shall be considered timely for purposes of this subpart if the comment, together with all supplemental information, is submitted in writing in accordance with the Board's Rules of Procedure and received by the Board or the appropriate Reserve Bank prior to the expiration of the latest public comment period provided in paragraph (b) of this section.

(2) *Extension of comment period*—(i) *In general.* The Board may, in its discretion, extend the public comment period regarding any proposal submitted under this subpart.

(ii) *Requests in connection with obtaining application or notice.* In the event that an interested person has requested a copy of a notice or application submitted under this subpart, the Board may, in its discretion and based on the facts and circumstances, grant such person an extension of the comment period for up to 15 calendar days.

§ 225.16

12 CFR Ch. II (1–1–05 Edition)

(iii) *Joint requests by interested person and acquiring company.* The Board will grant a joint request by an interested person and the acquiring bank holding company for an extension of the comment period for a reasonable period for a purpose related to the statutory factors the Board must consider under this subpart.

(3) *Substantive comment.* A comment will be considered substantive for purposes of this subpart unless it involves individual complaints, or raises frivolous, previously-considered or wholly unsubstantiated claims or irrelevant issues.

(d) *Notice to Attorney General.* The Board or Reserve Bank shall immediately notify the United States Attorney General of approval of any notice or application under § 225.14 or § 225.15.

(e) *Hearings.* As provided in section 3(b) of the BHC Act, the Board shall order a hearing on any application or notice under § 225.15 if the Board receives from the primary supervisor of the bank to be acquired, within the 30-day period specified in § 225.15(b), a written recommendation of disapproval of an application. The Board may order a formal or informal hearing or other proceeding on the application or notice, as provided in § 262.3(i)(2) of the Board's Rules of Procedure. Any request for a hearing (other than from the primary supervisor) shall comply with § 262.3(e) of the Rules of Procedure (12 CFR 262.3(e)).

(f) *Approval through failure to act—(1) Ninety-one day rule.* An application or notice under § 225.14 or § 225.15 shall be deemed approved if the Board fails to act on the application or notice within 91 calendar days after the date of submission to the Board of the complete record on the application. For this purpose, the Board acts when it issues an order stating that the Board has approved or denied the application or notice, reflecting the votes of the members of the Board, and indicating that a statement of the reasons for the decision will follow promptly.

(2) *Complete record.* For the purpose of computing the commencement of the 91-day period, the record is complete on the latest of:

(i) The date of receipt by the Board of an application or notice that has been accepted by the Reserve Bank;

(ii) The last day provided in any notice for receipt of comments and hearing requests on the application or notice;

(iii) The date of receipt by the Board of the last relevant material regarding the application or notice that is needed for the Board's decision, if the material is received from a source outside of the Federal Reserve System; or

(iv) The date of completion of any hearing or other proceeding.

(g) *Exceptions to notice and hearing requirements—(1) Probable bank failure.* If the Board finds it must act immediately on an application or notice in order to prevent the probable failure of a bank or bank holding company, the Board may modify or dispense with the notice and hearing requirements of this section.

(2) *Emergency.* If the Board finds that, although immediate action on an application or notice is not necessary, an emergency exists requiring expeditious action, the Board shall provide the primary supervisor 10 days to submit its recommendation. The Board may act on such an application or notice without a hearing and may modify or dispense with the other notice and hearing requirements of this section.

(h) *Waiting period.* A transaction approved under § 225.14 or § 225.15 shall not be consummated until 30 days after the date of approval of the application, except that a transaction may be consummated:

(1) Immediately upon approval, if the Board has determined under paragraph (g) of this section that the application or notice involves a probable bank failure;

(2) On or after the 5th calendar day following the date of approval, if the Board has determined under paragraph (g) of this section that an emergency exists requiring expeditious action; or

(3) On or after the 15th calendar day following the date of approval, if the Board has not received any adverse comments from the United States Attorney General relating to the competitive factors and the Attorney General has consented to the shorter waiting period.