

EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON, D.C. 20503

July 1, 1966

MEMORANDUM FOR MR. HOPKINS

Subject: The Federal Reserve Board's comments on S. 1160

Attached is a volunteered views letter from the Federal Reserve Board on enrolled bill S. 1160, which we forward to you for consideration in connection with Presidential action on that bill.

Wilf Rommel

Wilfred H. Rommel
Assistant Director for
Legislative Reference

Attachment



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

OFFICE OF THE VICE CHAIRMAN

July 1, 1966

Mr. Wilfred H. Rommel,
Assistant Director for
Legislative Reference,
Bureau of the Budget,
Washington, D. C. 20503

Dear Mr. Rommel:

This refers to the bill (S. 1160) to amend section 3 of the Administrative Procedure Act, which was passed by the Senate on October 13, 1965, and approved in the same form by the House on June 20, 1966. The Board wishes to make known its general accord with the Congressional purpose in enacting S. 1160. To the extent that the public's legitimate access to agency information is unduly restricted through recourse to existing provisions of law, remedial legislation is warranted. However, the Board believes that premature disclosure of certain records of the Board and of the Federal Open Market Committee ("FOMC") would have an adverse impact on the Board's ability to carry out its responsibilities, including the effectuation of sound monetary policy, and could have consequences seriously inimical to international relations and to the national interest.

There is enclosed a Preliminary Memorandum setting forth the details of certain of the actions and records of the Board and of the FOMC which, for the reasons set forth in the memorandum, it is urged should not be subjected to the full disclosure requirements of S. 1160. In brief, public access to the records of the Board or of the FOMC should be restricted or precluded where lack of such restriction or preclusion could jeopardize relations between this Government and foreign governments and their respective central banks, could permit speculators and others to realize unfair profits or advantages through speculative trading in securities or foreign exchange, or could, with respect to Board action of a regulatory or disciplinary nature, result in irreparable injury to particular institutions or individuals.

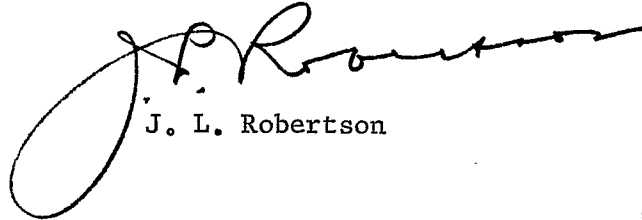
The Board urges that consideration be given to the issuance of a statement by the Chief Executive simultaneous with the signing of S. 1160 into law that would emphasize the foreseeable need for

Mr. Wilfred H. Rommel

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exempting by Executive Order certain of the Board's records, and that at a time convenient to all agencies concerned, but as soon as practicable after S. 1160 becomes law, the Bureau of the Budget convene a conference of agency representatives for the purpose of exploring and implementing action reasonably calculated to secure appropriate exemption from certain of the statute's provisions. One such course of action that might be initiated, perhaps by the Department of Justice with the support of all affected agencies, would be to seek amendments to S. 1160 reasonably calculated to afford protection in those areas determined to be necessary in the national interest.

Sincerely,

A handwritten signature in black ink, appearing to read "J. L. Robertson". The signature is written in a cursive style with a large, looping initial "J".

J. L. Robertson

Enclosure

RECEIVED
JUL 11 1964
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C.

PRELIMINARY MEMORANDUM ON S. 1160

As stated in the Board's letter transmitting this memorandum, the Board supports the purposes underlying enactment of S. 1160 and, to the extent compatible with the public interest, has endeavored to follow a policy of full disclosure of its actions. The Board believes, however, that certain of the requirements that would be imposed by S. 1160 as to time and circumstances of disclosure will give rise to serious problems involving national and public interests. Such problems, hereafter discussed, relate both to actions of the Board and of the Federal Open Market Committee ("FOMC") in the area of monetary policy, and to Board actions of a disciplinary or regulatory nature.

The principal means by which major monetary policy objectives are formulated and achieved are through the discussions and deliberations of the Board and of the FOMC. The decisions of the FOMC are implemented by open market purchases and sales, mainly of United States Government securities but also of foreign currencies. The Board's monetary responsibilities are carried out through discount operations, including the establishment of rates to be charged on loans and discounts by the Federal Reserve Banks to member banks; changes in the reserves required to be carried by member banks with respect to demand and time deposits held by them; changes in maximum permissible interest rates that may be paid on deposits; and the setting of stock margin requirements, i.e., regulating the amount of

credit which may be extended to a customer by brokers, dealers, or members of a national securities exchange, or by banks for the purchasing and carrying of registered securities.

FOMC Directives and Minutes

The FOMC, consisting of the seven members of the Board of Governors and Presidents of five of the Federal Reserve Banks, ordinarily meets every three or four weeks. Prior to and at each meeting, members are provided with written and oral presentations by Committee staff concerning present and prospective conditions in domestic business and credit markets and the United States balance of payments, developments in markets for foreign currencies, and developments abroad. These presentations are comprehensive and detailed, and are based in some measure on information obtained confidentially from both private and public sources. They include reports by the Manager of the System Open Market Account in which he outlines recent System operations in domestic markets and reviews market developments calculated to be of special significance in the immediate future. They also include reports by the Special Manager for Foreign Currency Operations often involving confidential information concerning the internal affairs, plans, and attitudes of foreign monetary authorities and Governments, given in support of recommendations made as to the desirability of the United States Government entering into various types of transactions with such foreign authorities. Extensive discussions and debates are held at each meeting, leading to final determination of actions with respect to domestic open market operations

and, as circumstances require, with respect to foreign currency operations. In the domestic area, policy decisions are reflected in a "current economic policy directive" adopted at each meeting by vote of the members, which provides the basic directions to the Account Manager for his day-to-day market operations until the next meeting of the FOMC.

The enrolled bill would appear to call for current publication in the Federal Register of the directives issued by the FOMC. This requirement could interfere with the effective execution of open market policies. The policies adopted often are intended to be tentative or probing, or to bring about gradual changes in market conditions, but financial markets would tend to react immediately and abruptly to knowledge regarding the decisions taken.

The enrolled bill also would appear to call for making available for public inspection and copying the minutes of the FOMC prepared for each meeting. This requirement presumably would be effective following approval of the minutes by the FOMC, which usually occurs at the following meeting. The minutes reflect the full substance of the staff's oral reports, partly verbatim, and the full substance of the discussion leading to policy decisions, as well as the decisions themselves. Written reports to the FOMC ordinarily are incorporated by reference.

The Board is strongly of the view that public disclosure of these minutes relatively soon after their preparation--and with respect to some elements, even long afterwards--could have substantially adverse

consequences for the public interest. In the area of foreign currency operations, for example, the interests of the United States could be severely damaged by revelation of the reports made regarding attitudes of foreign governments and monetary authorities and negotiations in process, and by revelation of the free and frank statements of opinion made during the meeting regarding the desirability, from the point of view of the United States, of particular types of transactions with named foreign countries.

In the area of domestic operations, premature public access to information on the discussions and decisions of the FOMC might permit speculators and others who take advantage of the opportunity for access to realize unfair profits or unfair advantages through speculative trading in securities.

In both the foreign currency and domestic areas, disclosure of FOMC minutes soon following the meetings would seriously impair the give and take of candid debate so vital to the decision-making function. Unless the form of the record were to be changed, no references could be made to information obtained on a confidential basis; all statements regarding possible future economic conditions and market operations would have to be made circumspectly in light of their potential immediate impact on financial markets; and candid opinions regarding the interests of the United States in its foreign financial dealings would often have to be left unexpressed for fear of damage to the nation's international relations.

It might be noted that, at present, pursuant to the requirements of section 10 of the Federal Reserve Act (12 U.S.C. 247a), the Board of Governors includes in its Annual Report a record of policy actions of the FOMC. This published record includes entries with respect to policy actions taken at each of the FOMC meetings during the year covered by the report, together with the votes on policy decisions made at such meeting, and a resume of the basis for such decisions as reflected by the minutes of the FOMC. It may be noted further that the FOMC's accord with the principle of full disclosure at a time consistent with due regard for all interests is illustrated by its action in releasing to the public all minutes of FOMC meetings held up to the end of the year 1960.

Board of Governors Minutes and Other Records

Similar adverse consequences could and, in the Board's judgment, most likely would result from premature public access to the minutes of Board meetings. The Board is particularly concerned with the security of its actions relating to the setting of discount rates, reserve and stock margin requirements, and interest rates on time and savings deposits. Since Board actions in these matters are made known to the public through the publication in the Federal Register of statements relating thereto, such statements would not be subject to the requirements of subsection (b) of S. 1160. However, subsection (c) would require that the Board make available "identifiable records" relating to these types of actions when requested by "any person". Assuming that the minutes of Board meetings constitute such "identifiable

records", the Board believes that its ability to effect and implement national monetary and credit policy would be measurably impaired were such minutes and related records with respect to the above actions to be made available upon demand at the time of or nearly simultaneous with such actions.

The Board's concern with respect to untimely disclosure of its minutes records applies also to those portions of its minutes reflecting Board deliberations and actions on certain matters of a disciplinary or regulatory nature, such as termination of membership of a State bank in the Federal Reserve System, or suspension of a member bank from use of the System's credit facilities. Minutes of meetings at which deliberations on these and similar matters are undertaken should not be made "promptly available to any person" upon request. An absolute requirement of public disclosure in such cases, even under the provision allowing deletion of identifying details, could, in some instances, permit of sufficient identification as to produce irreparable injury to particular institutions or individuals as well as to those segments of the public ultimately affected by such action.

The immediately foregoing matters are simply examples of the range of issues posed by S. 1160 for the management of monetary and credit policy. They are mentioned in order to assure their consideration at such time as efforts are made to secure for certain agencies legislative or Executive exemption from the full requirements of S. 1160.

Board of Governors of the Federal Reserve System
July 1, 1966