

§911.3

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for unpublished information in a legal proceeding in which the Finance Board or the United States is a party or a request for information or records the Finance Board must disclose under the Freedom of Information Act, Privacy Act, or the Finance Board's implementing regulations.

(2) This part does not, and may not be relied upon to create any substantive or procedural right or benefit enforceable against the Finance Board.

§911.3 Prohibition on unauthorized use and disclosure of unpublished information.

(a) *In general.* Possession or control by any person, supervised entity, Bank member, government agency, or other entity of unpublished information does not constitute a waiver by the Finance Board of any privilege or its right to control, supervise, or impose limitations on, the subsequent use and disclosure of the information.

(b) *Current and former employees and agents.* Except as authorized by this part or otherwise by the Finance Board, no current or former Finance Board employee or agent may disclose or permit the disclosure in any manner of any unpublished information to anyone other than a Finance Board employee or agent for use in the performance of official duties.

(c) *Other persons or entities possessing unpublished information.* (1) Except as authorized in writing by the Finance Board, no person, supervised entity, Bank member, government agency, or other entity in possession or control of unpublished information may disclose or permit the use or disclosure of such information in any manner or for any purpose.

(2) All unpublished information made available under this part remains the property of the Finance Board and may not be used or disclosed for any purpose other than that authorized under this part without the prior written permission of the Finance Board.

(3) Reports of examination, supervisory correspondence, and other unpublished information lawfully in the possession of a supervised entity, Bank member, or government agency remains the property of the Finance Board and may not be used or disclosed

for any purpose other than that authorized under this part without the prior written permission of the Finance Board.

(4) Any person or entity that discloses or uses unpublished information except as expressly authorized under this part may be subject to the penalties provided in 18 U.S.C. 641 and other applicable laws. A current Finance Board, Bank, or Office of Finance employee also may be subject to administrative or disciplinary proceedings.

(d) *Exception for supervised entities and Bank members.* When necessary or appropriate for business purposes, a supervised entity, Bank member, or any director, officer, employee, or agent thereof, may disclose unpublished information, including information contained in, or related to, supervisory correspondence or reports of examination, to a person or entity officially connected with the supervised entity or Bank member as officer, director, employee, attorney, agent, auditor, or independent auditor. A supervised entity, Bank member, or a director, officer, employee, or agent thereof, also may disclose unpublished information to a consultant under this paragraph if the consultant is under a written contract to provide services to the supervised entity or Bank member and the consultant has agreed in writing:

(1) To abide by the prohibition on the disclosure of unpublished information contained in this section; and

(2) That it will not to use the unpublished information for any purposes other than those stated in its contract to provide services to the supervised entity or Bank member.

(e) *Government agencies.* The Finance Board may make reports of examination, supervisory correspondence, and other unpublished information available to another federal agency or a state agency for use where necessary in the performance of the agency's official duties. As used in this paragraph, the term agency does not include a grand jury.

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