

Comptroller of the Currency, Treasury

§ 19.1

19.113 Recommended and final decisions.

Subpart D—Exemption Hearings Under Section 12(h) of the Securities Exchange Act of 1934

19.120 Scope.
19.121 Application for exemption.
19.122 Newspaper notice.
19.123 Informal hearing.
19.124 Decision of the Comptroller.

Subpart E—Disciplinary Proceedings Involving the Federal Securities Laws

19.130 Scope.
19.131 Notice of charges and answer.
19.132 Disciplinary orders.
19.135 Applications for stay or review of disciplinary actions imposed by registered clearing agencies.

Subpart F—Civil Money Penalty Authority Under the Securities Laws

19.140 Scope.

Subpart G—Cease-and-Desist Authority Under the Securities Laws

19.150 Scope.

Subpart H—Change in Bank Control

19.160 Scope.
19.161 Notice of disapproval and hearing initiation.

Subpart I—Discovery Depositions and Subpoenas

19.170 Discovery depositions.
19.171 Deposition subpoenas.

Subpart J—Formal Investigations

19.180 Scope.
19.181 Confidentiality of formal investigations.
19.182 Order to conduct a formal investigation.
19.183 Rights of witnesses.
19.184 Service of subpoena and payment of witness expenses.

Subpart K—Parties and Representational Practice Before the OCC; Standards of Conduct

19.190 Scope.
19.191 Definitions.
19.192 Sanctions relating to conduct in an adjudicatory proceeding.
19.193 Censure, suspension or debarment.
19.194 Eligibility of attorneys and accountants to practice.
19.195 Incompetence.
19.196 Disreputable conduct.

19.197 Initiation of disciplinary proceeding.
19.198 Conferences.
19.199 Proceedings under this subpart.
19.200 Effect of suspension, debarment or censure.
19.201 Petition for reinstatement.

Subpart L—Equal Access to Justice Act

19.210 Scope.

Subpart M—Procedures for Reclassifying a Bank Based on Criteria Other Than Capital

19.220 Scope.
19.221 Reclassification of a bank based on unsafe or unsound condition or practice.
19.222 Request for rescission of reclassification.

Subpart N—Order To Dismiss a Director or Senior Executive Officer

19.230 Scope.
19.231 Order to dismiss a director or senior executive officer.

Subpart O—Civil Money Penalty Inflation Adjustments

19.240 Inflation adjustments.
19.241 Applicability.

Subpart P—Removal, Suspension, and Debarment of Accountants From Performing Audit Services

19.241 Scope.
19.242 Definitions.
19.243 Removal, suspension, or debarment.
19.244 Automatic removal, suspension, or debarment.
19.245 Notice of removal, suspension, or debarment.
19.246 Petition for reinstatement.

AUTHORITY: 5 U.S.C. 504, 554-557; 12 U.S.C. 93(b), 93a, 164, 505, 1817, 1818, 1820, 1831m, 1831o, 1972, 3102, 3108(a), 3909 and 4717; 15 U.S.C. 78(h) and (i), 78o-4(c), 78o-5, 78q-1, 78s, 78u, 78u-2, 78u-3, and 78w; 28 U.S.C. 2461 note; 31 U.S.C. 330, 5321; and 42 U.S.C. 4012a.

SOURCE: 56 FR 38028, Aug. 9, 1991, unless otherwise noted.

Subpart A—Uniform Rules of Practice and Procedure

§ 19.1 Scope.

This subpart prescribes Uniform Rules of practice and procedure applicable to adjudicatory proceedings required to be conducted on the record after opportunity for a hearing under the following statutory provisions:

§ 19.2

12 CFR Ch. I (1-1-04 Edition)

(a) Cease-and-desist proceedings under section 8(b) of the Federal Deposit Insurance Act ("FDIA") (12 U.S.C. 1818(b));

(b) Removal and prohibition proceedings under section 8(e) of the FDIA (12 U.S.C. 1818(e));

(c) Change-in-control proceedings under section 7(j)(4) of the FDIA (12 U.S.C. 1817(j)(4)) to determine whether the Office of the Comptroller of the Currency ("OCC") should issue an order to approve or disapprove a person's proposed acquisition of an institution;

(d) Proceedings under section 15C(c)(2) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78o-5), to impose sanctions upon any government securities broker or dealer or upon any person associated or seeking to become associated with a government securities broker or dealer for which the OCC is the appropriate agency;

(e) Assessment of civil money penalties by the OCC against institutions, institution-affiliated parties, and certain other persons for which it is the appropriate agency for any violation of:

(1) Any provision of law referenced in 12 U.S.C. 93, or any regulation issued thereunder, and certain unsafe or unsound practices and breaches of fiduciary duty, pursuant to 12 U.S.C. 93;

(2) Sections 22 and 23 of the Federal Reserve Act ("FRA"), or any regulation issued thereunder, and certain unsafe or unsound practices and breaches of fiduciary duty, pursuant to 12 U.S.C. 504 and 505;

(3) Section 106(b) of the Bank Holding Company Amendments of 1970, pursuant to 12 U.S.C. 1972(2)(F);

(4) Any provision of the Change in Bank Control Act of 1978 or any regulation or order issued thereunder, and certain unsafe or unsound practices and breaches of fiduciary duty, pursuant to 12 U.S.C. 1817(j)(16);

(5) Any provision of the International Lending Supervision Act of 1983 ("ILSA"), or any rule, regulation or order issued thereunder, pursuant to 12 U.S.C. 3909;

(6) Any provision of the International Banking Act of 1978 ("IBA"), or any

rule, regulation or order issued thereunder, pursuant to 12 U.S.C. 3108;

(7) Section 5211 of the Revised Statutes (12 U.S.C. 161), pursuant to 12 U.S.C. 164;

(8) Certain provisions of the Exchange Act, pursuant to section 21B of the Exchange Act (15 U.S.C. 78u-2);

(9) Section 1120 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") (12 U.S.C. 3349), or any order or regulation issued thereunder;

(10) The terms of any final or temporary order issued under section 8 of the FDIA or any written agreement executed by the OCC, the terms of any condition imposed in writing by the OCC in connection with the grant of an application or request, certain unsafe or unsound practices, breaches of fiduciary duty, or any law or regulation not otherwise provided herein, pursuant to 12 U.S.C. 1818(i)(2);

(11) Any provision of law referenced in section 102(f) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)) or any order or regulation issued thereunder; and

(12) Any provision of law referenced in 31 U.S.C. 5321 or any order or regulation issued thereunder;

(f) Remedial action under section 102(g) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(g)); and

(g) This subpart also applies to all other adjudications required by statute to be determined on the record after opportunity for an agency hearing, unless otherwise specifically provided for in the Local Rules.

[56 FR 38028, Aug. 9, 1991, as amended at 61 FR 20334, May 6, 1996]

§ 19.2 Rules of construction.

For purposes of this part:

(a) Any term in the singular includes the plural, and the plural includes the singular, if such use would be appropriate;

(b) Any use of a masculine, feminine, or neuter gender encompasses all three, if such use would be appropriate;

(c) The term *counsel* includes a non-attorney representative; and

(d) Unless the context requires otherwise, a party's counsel of record, if any, may, on behalf of that party, take