

§ 263.40

part of the same document or in a separate document.

(b) *Effect of failure to file or raise exceptions.* (1) Failure of a party to file exceptions to those matters specified in paragraph (a) of this section within the time prescribed is deemed a waiver of objection thereto.

(2) No exception need be considered by the Board if the party taking exception had an opportunity to raise the same objection, issue, or argument before the administrative law judge and failed to do so.

(c) *Contents.* (1) All exceptions and briefs in support of such exceptions must be confined to the particular matters in, or omissions from, the administrative law judge's recommendations to which that party takes exception.

(2) All exceptions and briefs in support of exceptions must set forth page or paragraph references to the specific parts of the administrative law judge's recommendations to which exception is taken, the page or paragraph references to those portions of the record relied upon to support each exception, and the legal authority relied upon to support each exception.

§ 263.40 Review by the Board.

(a) *Notice of submission to the Board.* When the Board determines that the record in the proceeding is complete, the Board shall serve notice upon the parties that the proceeding has been submitted to the Board for final decision.

(b) *Oral argument before the Board.* Upon the initiative of the Board or on the written request of any party filed with the Board within the time for filing exceptions, the Board may order and hear oral argument on the recommended findings, conclusions, decision, and order of the administrative law judge. A written request by a party must show good cause for oral argument and state reasons why arguments cannot be presented adequately in writing. A denial of a request for oral argument may be set forth in the Board's final decision. Oral argument before the Board must be on the record.

(c) *Agency final decision.* (1) Decisional employees may advise and assist the Board in the consideration

12 CFR Ch. II (1-1-01 Edition)

and disposition of the case. The final decision of the Board will be based upon review of the entire record of the proceeding, except that the Board may limit the issues to be reviewed to those findings and conclusions to which opposing arguments or exceptions have been filed by the parties.

(2) The Board shall render a final decision within 90 days after notification of the parties that the case has been submitted for final decision, or 90 days after oral argument, whichever is later, unless the Board orders that the action or any aspect thereof be remanded to the administrative law judge for further proceedings. Copies of the final decision and order of the Board shall be served upon each party to the proceeding, upon other persons required by statute, and, if directed by the Board or required by statute, upon any appropriate state or Federal supervisory authority.

§ 263.41 Stays pending judicial review.

The commencement of proceedings for judicial review of a final decision and order of the Board may not, unless specifically ordered by the Board or a reviewing court, operate as a stay of any order issued by the Board. The Board may, in its discretion, and on such terms as it finds just, stay the effectiveness of all or any part of its order pending a final decision on a petition for review of that order.

Subpart B—Board Local Rules Supplementing the Uniform Rules

§ 263.50 Purpose and scope.

(a) This subpart prescribes the rules of practice and procedure governing formal adjudications set forth in § 263.50(b) of this subpart, and supplements the rules of practice and procedure contained in subpart A of this part.

(b) The rules and procedures of this subpart and subpart A of this part shall apply to the formal adjudications set forth in § 263.1 of subpart A and to the following adjudications:

(1) Suspension of a member bank from use of credit facilities of the Federal Reserve System under section 4 of the FRA (12 U.S.C. 301);

Federal Reserve System

§ 263.53

(2) Termination of a bank's membership in the Federal Reserve System under section 9 of the FRA (12 U.S.C. 327);

(3) Issuance of a cease-and-desist order under section 11 of the Clayton Act (15 U.S.C. 21);

(4) Adjudications under sections 2, 3, or 4 of the BHC Act (12 U.S.C. 1841, 1842, or 1843);

(5) Formal adjudications on bank merger applications under section 18(c) of the FDIA (12 U.S.C. 1828(c));

(6) Issuance of a divestiture order under section 5(e) of the BHC Act (12 U.S.C. 1844(e));

(7) Imposition of sanctions upon any municipal securities dealer for which the Board is the appropriate regulatory agency, or upon any person associated or seeking to become associated with such a municipal securities dealer, under section 15B(c)(5) of the Exchange Act (15 U.S.C. 78o-4);

(8) Proceedings where the Board otherwise orders that a formal hearing be held;

(9) Termination of the activities of a state branch, state agency, or commercial lending company subsidiary of a foreign bank in the United States, pursuant to section 7(e) of the IBA (12 U.S.C. 3105(d));

(10) Termination of the activities of a representative office of a foreign bank in the United States, pursuant to section 10(b) of the IBA (12 U.S.C. 3107(b));

(11) Issuance of a prompt corrective action directive to a member bank under section 38 of the FDI Act (12 U.S.C. 1831o);

(12) Reclassification of a member bank on grounds of unsafe or unsound condition under section 38(g)(1) of the FDI Act (12 U.S.C. 1831o(g)(1));

(13) Reclassification of a member bank on grounds of unsafe and unsound practice under section 38(g)(1) of the FDI Act (12 U.S.C. 1831o(g)(1)); and

(14) Issuance of an order requiring a member bank to dismiss a director or senior executive officer under section 38 (e)(5) and 38(f)(2) (F)(ii) of the FDI Act (12 U.S.C. 1831o(e)(5) and 1831o(f)(2) (F)(ii)).

[56 FR 38052, Aug. 9, 1991, as amended at 57 FR 13001, Apr. 15, 1992; 57 FR 44888, Sept. 29, 1992]

§ 263.51 Definitions.

As used in subparts B through G of this part:

(a) *Secretary* means the Secretary of the Board of Governors of the Federal Reserve System;

(b) *Member bank* means any bank that is a member of the Federal Reserve System.

(c) *Institution* has the same meaning as that assigned to it in §263.3(f) of subpart A, and includes any foreign bank with a representative office in the United States.

[56 FR 38052, Aug. 9, 1991, as amended at 57 FR 13001, Apr. 15, 1992; 58 FR 6363, Jan. 28, 1993]

§ 263.52 Address for filing.

All papers to be filed with the Board shall be filed with the Secretary of the Board of Governors of the Federal Reserve System, Washington, DC 20551.

§ 263.53 Discovery depositions.

(a) *In general.* In addition to the discovery permitted in subpart A of this part, limited discovery by means of depositions shall be allowed for individuals with knowledge of facts material to the proceeding that are not protected from discovery by any applicable privilege, and of identified expert witnesses. Except in unusual cases, accordingly, depositions will be permitted only of individuals identified as hearing witnesses, including experts. All discovery depositions must be completed within the time set forth in §263.24(d).

(b) *Application.* A party who desires to take a deposition of any other party's proposed witnesses, shall apply to the administrative law judge for the issuance of a deposition subpoena or subpoena duces tecum. The application shall state the name and address of the proposed deponent, the subject matter of the testimony expected from the deponent and its relevancy to the proceeding, and the address of the place and the time, no sooner than ten days after the service of the subpoena, for the taking of the deposition. Any such application shall be treated as a motion subject to the rules governing motions practice set forth in §263.23.