

Office of Thrift Supervision, Treasury

§ 509.1

(b) The recommended decision shall contain:

(1) A statement of the issue(s) presented,

(2) A statement of findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record, and

(3) An appropriate recommendation as to whether the suspension, removal, or prohibition should be continued, modified, or terminated.

§ 508.13 Decision of the Office.

(a) Within 30 days after the recommended decision has been certified to the Office, the Office shall issue a final decision.

(b) The Office's final decision shall contain a statement of the basis therefor. The Office may satisfy this requirement where it adopts the recommended decision of the presiding officer upon finding that the recommended decision satisfies the requirements of § 509.38 of this chapter.

(c) The Secretary shall serve upon the petitioner and the representative of the Office of Enforcement a copy of the Office's final decision and the related recommended decision.

[54 FR 49444, Nov. 30, 1989, as amended at 56 FR 38306, Aug. 12, 1991; 59 FR 53570, Oct. 25, 1994]

§ 508.14 Miscellaneous.

The provisions of §§ 509.10, 509.11, and 509.12 of this chapter shall apply to proceedings under this part.

[54 FR 49444, Nov. 30, 1989, as amended at 56 FR 38306, Aug. 12, 1991]

PART 509—RULES OF PRACTICE AND PROCEDURE IN ADJUDICATORY PROCEEDINGS

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- 509.103 Civil money penalties.
- 509.104 Additional procedures.

AUTHORITY: 5 U.S.C. 504, 554-557; 12 U.S.C. 1464, 1467, 1467a, 1468, 1817(j), 1818, 3349, 4717; 15 U.S.C. 78(1), 78o-5, 78u-2; 28 U.S.C. 2461 note; 31 U.S.C. 5321; 42 U.S.C. 4012a.

SOURCE: 56 FR 38306, Aug. 12, 1991, unless otherwise noted.

Subpart A—Uniform Rules of Practice and Procedure

§ 509.1 Scope.

This subpart prescribes Uniform Rules of practice and procedure applicable to adjudicatory proceedings as to

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which hearings on the record are provided for by the following statutory provisions:

(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 should issue an order to approve or disapprove a person's proposed acquisition of an institution and/or institution holding company;

(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 Office is the appropriate Office;

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

(1) Section 5 of the Home Owners' Loan Act (HOLA) or any regulation or order issued thereunder, pursuant to 12 U.S.C. 1464 (d), (s) and (v);

(2) Section 9 of the HOLA or any regulation or order issued thereunder, pursuant to 12 U.S.C. 1467(d);

(3) Section 10 of the HOLA, pursuant to 12 U.S.C. 1467a (i) and (r);

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

(5) Sections 22(h) and 23 of the Federal Reserve Act, or any regulation issued thereunder or certain unsafe or unsound practices or breaches of fiduciary duty, pursuant to 12 U.S.C. 1468;

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

(7) Section 1120 of Financial Institutions Reform, Recovery and Enforce-

ment Act of 1989 (12 U.S.C. 3349), or any order or regulation issued thereunder;

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

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

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

(f) Remedial action under section 102 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 38306, Aug. 12, 1991, as amended at 56 FR 59866, Nov. 26, 1991; 61 FR 20353, May 6, 1996]

§ 509.2 Rules of construction.

For purposes of this subpart:

(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 any action required to be taken by the party.

§ 509.3 Definitions.

For purposes of this subpart, unless explicitly stated to the contrary:

(a) *Administrative law judge* means one who presides at an administrative hearing under authority set forth at 5 U.S.C. 556.