institution for deposits shall have been assumed by another insured depository institution or depository institutions, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract, pursuant to section 8(q) of the FDI Act (12 U.S.C. 1818(q)).

(b) *DOS and legal concurrence.* The authority delegated under this section shall be exercised only upon the recommendation and concurrence of the Director or Deputy Director (DOS) or, when confirmed in writing by the Director, an associate director, and upon the certification of the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action taken is not inconsistent with section 8(q) of the FDI Act (12 U.S.C. 1818(q)).

§ 303.269 Civil money penalties.

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS), to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director, to an associate director, to issue:

(1) Notice of assessment of civil money penalties; and

(2) Final orders to pay (with or without a prior notice of assessment of civil money penalty) where the insured depository institution or institution-affiliated party consents to the issuance of the order to pay and waives, as applicable, receipt of a notice of assessment of civil money penalty and the right to an administrative hearing.

(b) *Legal concurrence.* The authority delegated under paragraph (a) of this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the allegations contained in the notice of assessment, if proven, constitute a basis for assessment of civil money penalties, or that the stipulated final order to pay is authorized under the FDI Act, and upon its effective date, shall be an order to pay which has become final for purposes of enforcement pursuant to the FDI Act.

(c) *Joint DOS–DCA action.* The Director (DOS) and the Director (DCA) may issue joint notices pursuant to paragraph (a) of this section where such notice addresses both safety and soundness and consumer compliance matters. A joint notice will require the signatures of both Directors or their Deputy Directors or associate directors.

(d) *Prosecution of civil money penalty actions and collection of civil money penalties.* Authority is delegated to the General Counsel or, where confirmed in writing, to his or her designee, to prosecute administrative civil money penalty actions and to collect civil money penalties under this section.

§ 303.270 Notices of assessment under section 5(e) of the FDI Act (12 U.S.C. 1815(e)).

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, to issue notices of assessment of liability to commonly controlled insured depository institutions for the estimated amount of loss to the deposit insurance funds.

(b) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action taken is not inconsistent with section 5(e) of the FDI Act (12 U.S.C. 1815(e)).

§ 303.271 Prompt corrective action directives and capital plans under section 38 of the FDI Act (12 U.S.C. 1831o) and part 325 of this chapter.

(a) *General—notices, directives and orders.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, and to the appropriate regional director and deputy regional director, to accept, reject, require new or revised capital restoration plans, or make any other determinations with respect to the implementation of capital restoration plans and, in accordance with subpart Q of part 308 of this chapter, to issue:

(1) Notices of intent to issue capital directives;

(2) Directives to insured state nonmember banks that fail to maintain