monies earned or received and all monies spent in connection with the administration of the plan of disgorgement. A final accounting shall be submitted for approval of the Commission or hearing officer prior to discharge of the administrator and cancellation of the administrator's bond, if any.

(f) *Amendment.* A plan may be amended upon motion by any party or the plan administrator or upon the Commission's or hearing officer's own motion.

§201.620 Right to challenge order of disgorgement.

Other than in connection with the opportunity to submit comments as provided in §201.612, no person shall be granted leave to intervene or to participate in a proceeding or otherwise to appear to challenge an order of disgorgement; or an order approving, approving with modifications, or disapproving a plan of disgorgement; or any determination relating to a plan of disgorgement based solely upon that person's eligibility or potential eligibility to participate in a disgorgement fund or based upon any private right of action such person may have against any person who is also a respondent in an enforcement proceeding.

§201.630 Inability to pay disgorgement, interest or penalties.

(a) *Generally.* In any proceeding in which an order requiring payment of disgorgement, interest or penalties may be entered, a respondent may present evidence of an inability to pay disgorgement, interest or a penalty. The Commission may, in its discretion, or the hearing officer may, in his or her discretion, consider evidence concerning ability to pay in determining whether disgorgement, interest or a penalty is in the public interest.

(b) *Financial disclosure statement.* Any respondent who asserts an inability to pay disgorgement, interest or penalties may be required to file a sworn financial disclosure statement and to keep the statement current. The financial statement shall show the respondent's assets, liabilities, income or other funds received and expenses or other payments, from the date of the first violation alleged against that respondent in the order instituting proceedings, or such later date as specified by the Commission or a hearing officer, to the date of the order requiring the disclosure statement to be filed. By order, the Commission or the hearing officer may prescribe the use of the Disclosure of Assets and Financial Information Form (*see* Form D–A at §209.1 of this chapter) or any other form, may specify other time periods for which disclosure is required, and may require such other information as deemed necessary to evaluate a claim of inability to pay.

(c) *Confidentiality.* Any respondent submitting financial information pursuant to this section or §201.410(c) may make a motion, pursuant to §201.322, for the issuance of a protective order against disclosure of the information submitted to the public or to any parties other than the Division of Enforcement. Prior to a ruling on the motion, no party receiving information as to which a motion for a protective order has been made may transfer or convey the information to any other person without the prior permission of the Commission or the hearing officer.

(d) *Service required.* Notwithstanding any provision of §201.322, a copy of the financial disclosure statement shall be served on the Division of Enforcement.

(e) *Failure to file required financial information: sanction.* Any respondent who, after making a claim of inability to pay either disgorgement, interest or a penalty, fails to file a financial disclosure statement when such a filing has been ordered or is required by rule may, in the discretion of the Commission or the hearing officer, be deemed to have waived the claim of inability to pay. No sanction pursuant to §§201.155 or 201.180 shall be imposed for a failure to file such a statement.

INFORMAL PROCEDURES AND SUPPLEMENTARY INFORMATION CONCERNING ADJUDICATORY PROCEEDINGS

§201.900 Informal Procedures and Supplementary Information Concerning Adjudicatory Proceedings.

(a) *Guidelines for the timely completion of proceedings.*(1) Timely resolution of adjudicatory proceedings is one factor

in assessing the effectiveness of the adjudicatory program in protecting investors, promoting public confidence in the securities markets and assuring respondents a fair hearing. Establishment of guidelines for the timely completion of key phases of contested administrative proceedings provides a standard for both the Commission and the public to gauge the Commission's adjudicatory program on this criterion. The Commission has directed that, to the extent possible:

(i) An administrative law judge's initial decision should be filed with the Secretary within 10 months of issuance of the order instituting proceedings.

(ii) A decision by the Commission on review of an interlocutory matter should be completed within 45 days of the date set for filing the final brief on the matter submitted for review.

(iii) A decision by the Commission on a motion to stay a decision that has already taken effect or that will take effect within five days of the filing of the motion, should be issued within five days of the date set for filing of the opposition to the motion for a stay. If the decision complained of has not taken effect, the Commission's decision should be issued within 45 days of the date set for filing of the opposition to the motion for a stay.

(iv) A decision by the Commission with respect to an appeal from the initial decision of a hearing officer, a review of a determination by a self-regulatory organization, or a remand of a prior Commission decision by a court of appeals should be issued within 11 months from the date the petition for review, application for review, or mandate of the court is filed.

(2) The guidelines in this paragraph (a) do not create a requirement that each portion of a proceeding or the entire proceeding be completed within the periods described. Among other reasons, a proceeding at either the hearing stage or on review by the Commission may require additional time because it is unusually complex or because the record is exceptionally long. In addition, fairness is enhanced if the Commission's deliberative process is not constrained by an inflexible schedule. In some proceedings, deliberation may be delayed by the need to consider more urgent matters, to permit the preparation of dissenting opinions, or for other good cause. The guidelines will be used by the Commission as one of several criteria in monitoring and evaluating its adjudicatory program. The guidelines will be examined periodically, and, if necessary, readjusted in light of changes in the pending caseload and the available level of staff resources.

(b) *Reports to the Commission on pending cases.* The administrative law judges, the Secretary and the General Counsel have each been delegated authority to issue certain orders or adjudicate certain proceedings. *See* 17 CFR 200.30–1 *et seq.* Proceedings are also assigned to the General Counsel for the preparation of a proposed order or opinion which will then be recommended to the Commission for consideration. In order to improve accountability by and to the Commission for management of the docket, the Commission has directed that confidential status reports with respect to all filed adjudicatory proceedings shall be made periodically to the Commission. These reports will be made through the Secretary, with a minimum frequency established by the Commission. In connection with these periodic reports, if a proceeding assigned to an administrative law judge or pending before the Commission has not been concluded within 30 days of the guidelines established in paragraph (a) of this section, the Chief Administrative Law Judge or the General Counsel, respectively, shall specifically apprise the Commission of that fact, and shall describe the procedural posture of the case, project an estimated date for conclusion of the proceeding, and provide such other information as is necessary to enable the Commission to determine whether additional steps are necessary to reach a fair and timely resolution of the matter.

(c) *Publication of information concerning the pending case docket.* Ongoing disclosure of information about the adjudication program caseload increases awareness of the importance of the program, facilitates oversight of the program and promotes confidence in the efficiency and fairness of the program

by investors, securities industry participants, self-regulatory organizations and other members of the public. The Commission has directed the Secretary to publish in the *SEC Docket* in the first and seventh months of each fiscal year summary statistical information about the status of pending adjudicatory proceedings and changes in the Commission's caseload over the prior six months. The report will include the number of cases pending before the administrative law judges and the Commission at the beginning and end of the six-month period. The report will also show increases in the caseload arising from new cases being instituted, appealed or remanded to the Commission and decreases in the caseload arising from the disposition of proceedings by issuance of initial decisions, issuance of final decisions issued on appeal of initial decisions, other dispositions of appeals of initial decisions, final decisions on review of self-regulatory organization determinations, other dispositions on review of self-regulatory organization determinations, and decisions with respect to stays or interlocutory motions. For each category of decision, the report shall also show the median age of the cases at the time of the decision and the number of cases decided within the guidelines for the timely completion of adjudicatory proceedings.

TABLE I TO SUBPART D—ADVERSARY ADJUDICATIONS CONDUCTED BY THE COMMISSION UNDER 5 U.S.C. 554

SECURITIES EXCHANGE ACT OF 1934

Section 11A(b)(6), 15 U.S.C. 78k–1(b)(6) (suspension or revocation of registration, or censure of a securities information processor).

Section 11A(c)(3)(A), 15 U.S.C. 78k–1(c)(3)(A) (prohibition of transactions by brokers and dealers in registered securities other than on a national securities exchange).

Section 12(j), 15 U.S.C. 78*l*(j) (suspensions of effective date or revocation of registration of a security).

Section 15(b)(4), 15 U.S.C. 78*o*(b)(4) (suspension or revocation of registration, or censure of a broker or dealer).

Section 15(b)(6)(A), 15 U.S.C. 78*o*(b)(6)(A) (censure, suspension or bar an associate of a broker or a dealer).

Section 15B(c)(2), 15 U.S.C. 78*o*–4(c)(2) (suspension or revocation of registration, or censure of a municipal securities dealer).

Section 15B(c)(4), 15 U.S.C. 78*o*–4(c)(4) (censure, suspension or bar of an associate of a municipal securities broker or dealer).

Section 15B(c)(8), 15 U.S.C. 78*o*–4(c)(8) (removal or censure of member of the Municipal Securities Rulemaking Board).

Section 15C(c)(1)(A), 15 U.S.C. 78*o*–5(c)(1)(A) (suspension or revocation of registration, or censure of a government securities broker or dealer).

Section 15C(c)(1)(C), 15 U.S.C. 78*o*–5(c)(1)(C) (censure, suspension or bar of an associate of a government securities broker or dealer).

Section 17A(c)(3), 15 U.S.C. 78q–1(c)(3) (deny registration, censure, place limitation on, suspend, or revoke registration of a transfer agent).

Section 17A(c)(4)(C), 15 U.S.C. 78q–1(c)(4)(C) (censure, place limitations on, suspend or bar certain persons associated or seeking to associate with a transfer agent).

Section 19(h)(1), 15 U.S.C. 78s(h)(1) (suspension or revocation of registration, or censure of a self-regulatory organization).

Section 19(h)(2), 15 U.S.C. 78s(h)(2) (suspension or expulsion of a member of a self-regulatory organization).

Section 19(h)(3), 15 U.S.C. 78s(h)(3) (suspension or bar of a person from being associated with a national securities exchange or registered securities association).

Section 19(h)(4), 15 U.S.C. 78s(h)(4) (removal or censure of a director or officer of a self-regulatory organization).

Section 21B(a), 15 U.S.C. 78u–2(a) (imposition of civil penalties against any person for violation of the federal securities laws).

INVESTMENT COMPANY ACT OF 1940

Section 9(d)(1), 15 U.S.C. 80a–9(d)(1) (imposition of civil penalties against any person for violation of the federal securities laws).

INVESTMENT ADVISERS ACT OF 1940

Section 203(e), 15 U.S.C. 80b–3(e) (suspension or revocation of registration, or censure of an investment adviser).

Section 203(f), 15 U.S.C. 80b–3(f) (censure, suspension, or bar of an associate of an investment adviser).

Section 203(i)(1), 15 U.S.C. 80b–3(i)(1) (imposition of civil penalties against any person for violation of the federal securities laws).

TABLE II TO SUBPART D—CROSS-REFERENCE SHOWING LOCATION OF RULES OF PRACTICE ADOPTED IN 1955 WITH FORMER RULES OF PRACTICE, RELATED RULES, AND STATUTORY PROVISIONS

New rules (17 CFR 201)	Former rules/Act §
100	1.
101	none.
102	2.
102(d)(4)	none.

New rules (17 CFR 201)	Former rules/Act §
103(a)–(c)	none.
104	5.
110	11(b).
111	11(d)–(e), 16(g).
112	11(c).
120	5 U.S.C. 554(d).
121	5 U.S.C. 554(d).
140(a)	22(h).
140(b)–(c)	22(k).
141(a)	6(a), (b), (f).
141(b)	23(d).
150(a)	23(a).
150(b)	2(d), (h).
150(c)	23(b).
150(d)	23(c).
151	12(b), 22(a).
152(a)–(e)	22(a)–(h).
152(f)	20(d).
153	7(f).
154	11(e).
155	12(d).
160	22(j), 23(b).
161	13.
180(a)	2(f).
180(b)–(c)	none.
190	25.
191	27, 28.
192	4.
193	29.
200(a)(1)	6(a), (b).
200(a)(2)	6(f).
200(b), (c)	6(a), (b).
200(d)	6(d).
200(e)	6(c).
201	10.
202	8(b), (c).
210	9.
220	7(a)–(e).
221(a)–(c), (e)	8(d)
221(d)	none.
221(f)	6(e).
222(a)	8(d).
222(b)	none.
230	none.
231(a)	11–1.
231(b)	none.
232(a)–(d)	14(b).
232(e)–(f)	14(b)(2), (c).
233	15(a)–(e).
234	15(g).
235	15(f).
240	8(a).
250	11(e).
300	11(a)–(b).
301	11(b).
302(a)	11(f).
302(b)	25(d).
302(c)	20(c).
310	6(e).
320	14(a).
321(a)	11(e).
321(b)	none.
322	none.
323	14(d).
324	none.
325	14(a).
326	14(a).
340	16(d)–(e).
350	20(a)–(b).
351	20(a)(4).
360(a)	16(b).
360(b)	16(a).
360(c)	16(f).
360(d), (e)	17(f).
400	12(a).
401	12(c).
401(d)(2)	15 U.S.C. 78s(d)(2).
410(a)	17(a).
410(b)	17(b).
410(c)	none.
410(d)	none.
410(e)	17(h).
411(a)	17(g)(2).
411(b)	17(d).
411(c)	17(c).
411(d)	17(g)(1).
411(e)	17(d).
411(f)	17(g)(3).
420(a), (b), (d)	17 CFR 240.19d–3(b).
420(c)	15 U.S.C. 78s(d)(2).
420(d)	58.
421(a)	15 U.S.C. 78s(e)–(f).
421(b)–(c)	none.
430	26(a), (c).
431(a)	none.
431(b)	26(b).
431(c)	26(d).
431(d)–(f)	26(e).
450(a)	17(e).
450(b)	18, 17 CFR 240.19d–3(c)–(g).
450(c)	22(d).
451	21.
452	21(d).
460	20, 21(c).
470	21(e).
490	23(e).
500	none.
510	none.
511	none.
512	none.
513	none.
514	none.
520	none.
521	none.
522	none.
524	none.
530	19.
531	none.
540	none.
550	17 CFR 202.8.
600	none.
601	none.
610	none.
611	none.
612	none.
613	none.
614	none.
620	none.
630	none.
900	none.

TABLE III TO SUBPART D—CROSS-REFERENCE TABLE SHOWING LOCATION OF FORMER RULES OF PRACTICE AND RELATED RULES WITH RULES OF PRACTICE ADOPTED IN 1995

Former rules	New rules (17 CFR 201)
1	100.
2	102.
2(d), (h)	150(b).
2(f)	180(a).
3 [reserved]	n/a.
4	192.

Former rules	New rules (17 CFR 201)
5	104.
6(a)	200(b).
6(a),(b),(f)	141(a).
6(a), (b)	200(a)(1).
6(b)	200(c).
6(c), (d)	200(d), (e).
6(e)	221(f), 310.
6(f)	200(a)(2).
7(a)–(e)	220.
7(f)	153.
8(a)	240.
8(b)–(c)	202.
8(d)	221, 222(a).
9	210.
10	201.
11(a)–(b)	300.
11(b)	110, 301.
11(c)	112.
11(d), (e)	111.
11(e)	154, 250, 321(a).
11(f)	302(a).
11–1	231(a).
12(a)	400.
12(b)	151(c).
12(c)	401.
12(d)	155.
13	161.
14(a)	320, 325, 326.
14(b)	232(a)–(d).
14(b)(2), (c)	232(e)–(f).
14(d)	323.
15(a)–(e)	233.
15(f)	235.
15(g)	234.
16(a)	360(b).
16(b)	360(a).
16(c) [reserved]	n/a.
16(d)–(e)	340.
16(f)	351, 360(c).
16(g)	111.
17(a)	410(a).
17(b)	410(b).
17(c)	411(c).
17(d)	411(b), (e).
17(e)	450(a), (d).
17(f)	360(d), (e).
17(g)	411(d), (a), (f).
17(h)	410(e).
18	450(b).
19	530.
20(a)–(b)	350, 351, 460.
20(c)	302(c).
20(d)	152(f).
21	451.
21(c)	460.
21(d)	452.
21(e)	470.
22(a)	151(a)–(c), 152.
22(b) [reserved]	n/a.
22(c)	152(d).
22(d)	152(e), 450(c).
22(e)–(g)	152(a)–(c).
22(h)	140(a).
22(i)	none.
22(j), (k)	160, 140(c).
22(k)	140(b).
23(a)	150(a).
23(b)	150(c), 160.
23(c)	150(d).
23(d)	141(b).
23(e)	490.
24	17 CFR 228.10(f), 17 CFR 229.10(d).
25	190.
25(d)	302(b).
26(a), (c)	430.
26(b)	431(b).
26(d)	431(c).
26(e)	431(d)–(f).
27	191.
28	191.
29	193.
17 CFR 202.8	550.
17 CFR 240.19d–2	401(a)–(b), (d).
17 CFR 240.19d–3(a)	420,421.
17 CFR 240.19d–3(b)	420(a), (b), (d).
17 CFR 240.19d–3(c)–(d)	450, 180(c).
17 CFR 240.19d–3(e)	452.
17 CFR 240.19d–3(f)	451.
17 CFR 240.19d–3(g)	100.

Subpart E—Adjustment of Civil Monetary Penalties

AUTHORITY: Pub. L. 104–134, 110 Stat. 1321.

SOURCE: 61 FR 57774, Nov. 8, 1996, unless otherwise noted.

§ 201.1001 Adjustment of civil monetary penalties—1996.

As required by the Debt Collection Improvement Act of 1996, the maximum amounts of all civil monetary penalties under the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 are adjusted for inflation in accordance with Table I to this subpart. The adjustments set forth in Table I apply to violations occurring after December 9, 1996 and before February 2, 2001.

[66 FR 8762, Feb. 2, 2001]

TABLE 1 TO SUBPART E—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. code citation	Civil monetary penalty description	Year penalty amount was last set by law	Original statutory maximum penalty amount	Adjusted maximum penalty amount
SECURITIES AND EXCHANGE COMMISSION:				