

Federal Housing Finance Board

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(iv) By registered or certified mail addressed to the person's last known address; or

(v) By any other method reasonably calculated to give actual notice.

(d) *Subpoenas.* Subject to applicable provisions in this part, service of a subpoena may be made:

(1) By personal service;

(2) If the person to be served is an individual, by delivery to a person of suitable age and discretion at the physical location where the individual resides or works;

(3) If the person to be served is a corporation or other association, by delivery to an officer, managing or general agent, or to any other agent authorized by appointment or by law to receive service and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the party;

(4) By registered or certified mail addressed to the person's last known address; or

(5) By any other method reasonably calculated to give actual notice.

(e) *Area of service.* Service in any State, commonwealth, possession, territory of the United States or the District of Columbia on any person doing business in any State, commonwealth, possession, territory of the United States or the District of Columbia, or on any person as otherwise permitted by law, is effective without regard to the place where the hearing is held.

(f) *Proof of service.* Proof of service of papers filed by a party shall be filed before action is taken thereon. The proof of service, which shall serve as prima facie evidence of the fact and date of service, shall show the date and manner of service and may be by written acknowledgment of service, by declaration of the person making service, or by certificate of a representative of record. However, failure to file proof of service contemporaneously with the papers shall not affect the validity of actual service. The presiding officer may allow the proof to be amended or supplied, unless to do so would result in material prejudice to a party.

§ 908.27 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by

this subpart, the date of the act or event that commences the designated period of time is not included. The last day so computed is included unless it is a Saturday, Sunday, or Federal holiday. When the last day is a Saturday, Sunday or Federal holiday, the period shall run until the end of the next day that is not a Saturday, Sunday, or Federal holiday. Intermediate Saturdays, Sundays and Federal holidays are included in the computation of time. However, when the time period within which an act is to be performed is ten (10) days or less, not including any additional time allowed for in paragraph (c) of this section, intermediate Saturdays, Sundays and Federal holidays are not included.

(b) *When papers are deemed to be filed or served.* (1) Filing and service are deemed to be effective—

(i) In the case of personal service or same day reliable commercial delivery service, upon actual service;

(ii) In the case of U.S. Postal Service or reliable commercial overnight delivery service, or first class, registered, or certified mail, upon deposit in or delivery to an appropriate point of collection; or

(iii) In the case of transmission by electronic media, as specified by the authority receiving the filing in the case of filing, and as agreed among the parties in the case of service.

(2) The effective filing and service dates specified in paragraph (b)(1) of this section may be modified by the Finance Board or the presiding officer in the case of filing or by agreement of the parties in the case of service.

(c) *Calculation of time for service and filing of responsive papers.* Whenever a time limit is measured by a prescribed period from the service of any notice or paper, the applicable time limits shall be calculated as follows:

(1) If service was made by first class, registered, or certified mail, or by delivery to the U.S. Postal Service for longer than overnight delivery service, add three (3) calendar days to the prescribed period for the responsive filing.

(2) If service was made by U.S. Postal Service or reliable commercial overnight delivery service, add one (1) calendar day to the prescribed period for the responsive filing.

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(3) If service was made by electronic media transmission, add one (1) calendar day to the prescribed period for the responsive filing, unless otherwise determined by the Board of Directors or the presiding officer in the case of filing, or by agreement among the parties in the case of service.

§ 908.28 Change of time limits.

Except as otherwise provided by law, the presiding officer may, for good cause shown, extend the time limits prescribed above or prescribed by any notice or non-dispositive order issued under this part. After the referral of the case to the Board of Directors pursuant to § 908.63, the Board of Directors may grant extensions of the time limits for good cause shown. Extensions may be granted on the motion of a party after notice and opportunity to respond is afforded all nonmoving parties, or on the Board of Directors' or the presiding officer's own motion.

§ 908.29 Witness fees and expenses.

Witnesses (other than parties) subpoenaed for testimony or depositions shall be paid the same fees for attendance and mileage as are paid to witnesses pursuant to the Federal Rules of Civil Procedure (title 28 of the U.S. Code) governing proceedings in the United States district courts, in which the United States is a party, provided that, in the case of a discovery subpoena addressed to a party, no witness fees or mileage shall be paid. Fees for witnesses shall be tendered in advance by the party requesting the subpoena, except that fees and mileage need not be tendered in advance where the Finance Board is the issuer of the subpoena. The Finance Board shall not be responsible for or required to pay any fees to or expenses of any witness not subpoenaed by the Finance Board.

§ 908.30 Settlement or other dispute resolution.

Any respondent may, at any time in a cease and desist or civil money penalty proceeding, unilaterally submit to the Finance Board's counsel of record written offers or proposals for settlement of such proceeding in whole or in part without prejudice to the rights of any of the parties. Any such offer or

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proposal shall be made exclusively to the Finance Board. Submission of a written settlement offer does not provide a basis for adjourning or otherwise delaying all or any portion of a proceeding under this part. Any party to a proceeding under this part may request a neutral individual preside over settlement negotiations. No settlement offer or proposal, or any subsequent negotiation or resolution, is admissible as evidence in any proceeding under this part or any court.

§ 908.31 Right to supervise the Banks.

Nothing contained in this part shall limit in any manner the right of the Finance Board to conduct any examination, inspection, or visitation of any Bank, or the right of the Finance Board to conduct or continue any form of investigation authorized by law. Nothing set forth in this part shall restrict or be deemed to restrict the authority of the Finance Board to supervise the Banks or to issue or enforce orders or directives pursuant to section 2B(a)(1), or any other provision, of the Act (12 U.S.C. 1422b(a)(1)).

§ 908.32 Collateral attacks on proceedings under this part.

If a respondent files in any court a collateral attack that purports to challenge all or any portion of a proceeding under this part, the hearing on the merits shall continue without regard to the pendency of any such challenge action. No default or other failure to act as directed in the hearing within the times prescribed in this subpart shall be excused based on the pendency of any such challenge action.

§§ 908.33-908.39 [Reserved]

Subpart D—Pre-Hearing Proceedings

§ 908.40 Commencement of proceeding and contents of notices.

Proceedings under this part are commenced by the issuance of a notice of charges or a notice of assessment of a civil money penalty (notice). A notice that is served by the Finance Board upon a respondent in accordance with § 908.7 shall state all of the following: