(b) *Filing of index*. At the same time the administrative law judge files with and certifies to the Comptroller for final determination the record of the proceeding, the administrative law judge shall furnish to the Comptroller a certified index of the entire record of the proceeding. The certified index shall include, at a minimum, an entry for each paper, document or motion filed with the administrative law judge in the proceeding, the date of the filing, and the identity of the filer. The certified index shall also include an exhibit index containing, at a minimum, an entry consisting of exhibit number and title or description for: Each exhibit introduced and admitted into evidence at the hearing; each exhibit introduced but not admitted into evidence at the hearing; each exhibit introduced and admitted into evidence after the completion of the hearing; and each exhibit introduced but not admitted into evidence after the completion of the hearing.

[61 FR 20336, May 6, 1996]

§ 19.39 Exceptions to recommended decision.

(a) *Filing exceptions*. Within 30 days after service of the recommended decision, findings, conclusions, and proposed order under § 19.38, a party may file with the Comptroller written exceptions to the administrative law judge's recommended decision, findings, conclusions or proposed order, to the admission or exclusion of evidence, or to the failure of the administrative law judge to make a ruling proposed by a party. A supporting brief may be filed at the time the exceptions are filed, either as 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 Comptroller 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.

§ 19.40 Review by the Comptroller.

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

(b) *Oral argument before the Comptroller*. Upon the initiative of the Comptroller or on the written request of any party filed with the Comptroller within the time for filing exceptions, the Comptroller 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 Comptroller's final decision. Oral argument before the Comptroller must be on the record.

(c) *Comptroller's final decision*. (1) Decisional employees may advise and assist the Comptroller in the consideration and disposition of the case. The final decision of the Comptroller will be based upon review of the entire record of the proceeding, except that the Comptroller 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 Comptroller 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 Comptroller 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 Comptroller shall be served upon each party to the proceeding, upon other persons required by statute, and, if directed by the Comptroller or required by statute, upon any appropriate state or Federal supervisory authority.

§ 19.41 Stays pending judicial review.

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

Subpart B—Procedural Rules for OCC Adjudications

§ 19.100 Filing documents.

All materials required to be filed with or referred to the Comptroller or the administrative law judge in any proceeding under this part must be filed with the Hearing Clerk, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. Filings to be made with the Hearing Clerk include the notice and answer; motions and responses to motions; briefs; the record filed by the administrative law judge after the issuance of a recommended decision; the recommended decision filed by the administrative law judge following a motion for summary disposition (except that in removal and prohibition cases instituted pursuant to 12 U.S.C. 1818, the administrative law judge will file the record and the recommended decision with the Board of Governors of the Federal Reserve System); referrals by the administrative law judge of motions for interlocutory review; exceptions and requests for oral argument; and any other papers required to be filed with the Comptroller or the administrative law judge under this part.

[68 FR 48265, Aug. 13, 2002]

§ 19.101 Delegation to OFIA.

Unless otherwise ordered by the Comptroller, administrative adjudications subject to subpart A of this part shall be conducted by an administrative law judge assigned to OFIA.

Subpart C—Removals, Suspensions, and Prohibitions When a Crime Is Charged or a Conviction is Obtained

§ 19.110 Scope.

This subpart applies to informal hearings afforded to any institution-affiliated party who has been suspended or removed from office or prohibited from further participation in bank affairs by a notice or order issued by the Comptroller.

§ 19.111 Suspension, removal, or prohibition.

The Comptroller may serve a notice of suspension or order of removal or prohibition on an institution-affiliated party. A copy of such notice or order will be served on the bank, whereupon the institution-affiliated party involved must immediately cease service to the bank or participation in the affairs of the bank. The notice or order will indicate the basis for suspension, removal or prohibition and will inform the institution-affiliated party of the right to request in writing, to be received by the OCC within 30 days from the date that the institution-affiliated party was served with such notice or order, an opportunity to show at an informal hearing that continued service to or participation in the conduct of the affairs of the bank does not, or is not likely to, pose a threat to the interest of the bank's depositors or threaten to impair public confidence in the bank. The written request must be sent by certified mail to, or served personally with a signed receipt on, the District Deputy Comptroller in the OCC district in which the bank, accountant, or accounting firm in question is located, or, if the bank is supervised by Large Bank Supervision, to the appropriate Deputy Comptroller for Large Bank Supervision for the Office of the Comptroller of the Currency, or if the bank is supervised by Mid-Size/