

Subpart N—Rules and Procedures Applicable to Proceedings Relating to Suspension, Removal, and Prohibition Where a Felony Is Charged

SOURCE: 72 FR 67235, Nov. 28, 2007, unless otherwise noted.

§ 308.161 Scope.

The rules and procedures set forth in this subpart shall apply to the following:

(a) Proceedings to suspend an institution-affiliated party of an insured state nonmember bank, or to prohibit such party from further participation in the conduct of the affairs of any depository institution, if continued service or participation by such party posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined at section 1818(g)(1)(E) of Title 12), where the individual is the subject of any state or federal information, indictment, or complaint, involving the commission of, or participation in:

(1) A crime involving dishonesty or breach of trust punishable by imprisonment exceeding one year under state or federal law; or

(2) A criminal violation of section 1956, 1957, or 1960 of Title 18 or section 5322 or 5324 of Title 31.

(b) Proceedings to remove from office or to prohibit an institution-affiliated party from further participation in the conduct of the affairs of any depository institution without the consent of the Board of Directors or its designee where:

(1) A judgment of conviction or an agreement to enter a pre-trial diversion or other similar program has been entered against such party in connection with a crime described in paragraph (a)(1) of this section that is not subject to further appellate review, if continued service or participation by such party posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository in-

stitution (as defined at section 1818(g)(1)(E) of Title 12); or

(2) A judgment of conviction or an agreement to enter a pre-trial diversion or other similar program has been entered against such party in connection with a crime described in paragraph (a)(2) of this section.

§ 308.162 Relevant considerations.

(a)(1) In proceedings under § 308.161(a) and (b) for a notice of suspension or prohibition, or a removal or prohibition order, the following shall be considered:

(i) Whether the alleged offense is a crime which is punishable by imprisonment for a term exceeding one year under state or federal law and which involves dishonesty or breach of trust; and

(ii) Whether the alleged offense is a criminal violation of section 1956, 1957, or 1960 of Title 18 or section 5322 or 5324 of Title 31; and

(iii) Whether continued service or participation by the institution-affiliated party posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined at section 1818(g)(1)(E) of Title 12).

(b) The question of whether an institution-affiliated party is guilty of the subject crime shall not be tried or considered in a proceeding under this subpart.

§ 308.163 Notice of suspension or prohibition, and orders of removal or prohibition.

(a) Notice of suspension or prohibition.

(1) The Board of Directors or its designee may suspend or prohibit from further participation in the conduct of the affairs of any depository institution an institution-affiliated party by written notice of suspension or prohibition upon a determination by the Board of Directors or its designee that the grounds for such suspension or prohibition exist. The written notice of suspension or prohibition shall be served upon the institution-affiliated party and any depository institution