

**PART 308—RULES OF PRACTICE
AND PROCEDURE**

**Subpart A—Uniform Rules of Practice and
Procedure**

- Sec.
- 308.1 Scope.
- 308.2 Rules of construction.
- 308.3 Definitions.
- 308.4 Authority of Board of Directors.
- 308.5 Authority of the administrative law judge.
- 308.6 Appearance and practice in adjudicatory proceedings.
- 308.7 Good faith certification.
- 308.8 Conflicts of interest.
- 308.9 Ex parte communications.
- 308.10 Filing of papers.
- 308.11 Service of papers.
- 308.12 Construction of time limits.
- 308.13 Change of time limits.
- 308.14 Witness fees and expenses.
- 308.15 Opportunity for informal settlement.
- 308.16 FDIC's right to conduct examination.
- 308.17 Collateral attacks on adjudicatory proceeding.
- 308.18 Commencement of proceeding and contents of notice.
- 308.19 Answer.
- 308.20 Amended pleadings.
- 308.21 Failure to appear.
- 308.22 Consolidation and severance of actions.
- 308.23 Motions.
- 308.24 Scope of document discovery.
- 308.25 Request for document discovery from parties.
- 308.26 Document subpoenas to nonparties.
- 308.27 Deposition of witness unavailable for hearing.
- 308.28 Interlocutory review.
- 308.29 Summary disposition.
- 308.30 Partial summary disposition.
- 308.31 Scheduling and prehearing conferences.
- 308.32 Prehearing submissions.
- 308.33 Public hearings.
- 308.34 Hearing subpoenas.
- 308.35 Conduct of hearings.
- 308.36 Evidence.
- 308.37 Post-hearing filings.
- 308.38 Recommended decision and filing of record.
- 308.39 Exceptions to recommended decision.
- 308.40 Review by Board of Directors.
- 308.41 Stays pending judicial review.

Subpart B—General Rules of Procedure

- 308.101 Scope of Local Rules.
- 308.102 Authority of Board of Directors and Executive Secretary.
- 308.103 Appointment of administrative law judge.
- 308.104 Filings with the Board of Directors.

- 308.105 Custodian of the record.
- 308.106 Written testimony in lieu of oral hearing.
- 308.107 Document discovery.

**Subpart C—Rules of Practice Before the
FDIC and Standards of Conduct**

- 308.108 Sanctions.
- 308.109 Suspension and disbarment.

**Subpart D—Rules and Procedures Applicable
to Proceedings Relating to Disapproval
of Acquisition of Control**

- 308.110 Scope.
- 308.111 Grounds for disapproval.
- 308.112 Notice of disapproval.
- 308.113 Answer to notice of disapproval.
- 308.114 Burden of proof.

**Subpart E—Rules and Procedures Applicable
to Proceedings Relating to Assessment
of Civil Penalties for Willful Violations
of the Change in Bank Control
Act**

- 308.115 Scope.
- 308.116 Assessment of penalties.
- 308.117 Effective date of, and payment under, an order to pay.
- 308.118 Collection of penalties.

**Subpart F—Rules and Procedures Applicable
to Proceedings for Involuntary Termination
of Insured Status**

- 308.119 Scope.
- 308.120 Grounds for termination of insurance.
- 308.121 Notification to primary regulator.
- 308.122 Notice of intent to terminate.
- 308.123 Notice to depositors.
- 308.124 Involuntary termination of insured status for failure to receive deposits.
- 308.125 Temporary suspension of deposit insurance.
- 308.126 Special supervisory associations.

**Subpart G—Rules and Procedures Applicable
to Proceedings Relating to Cease-and-Desist
Orders**

- 308.127 Scope.
- 308.128 Grounds for cease-and-desist orders.
- 308.129 Notice to state supervisory authority.
- 308.130 Effective date of order and service on bank.

Federal Deposit Insurance Corporation

Pt. 308

308.131 Temporary cease-and-desist order.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Money Penalties for Violation of Cease-and-Desist Orders and of Certain Federal Statutes, Including Call Report Penalties

308.132 Assessment of penalties.

308.133 Effective date of, and payment under, an order to pay.

Subpart I—Rules and Procedures for Imposition of Sanctions Upon Municipal Securities Dealers or Persons Associated With Them and Clearing Agencies or Transfer Agents

308.134 Scope.

308.135 Grounds for imposition of sanctions.

308.136 Notice to and consultation with the Securities and Exchange Commission.

308.137 Effective date of order imposing sanctions.

Subpart J—Rules and Procedures Relating to Exemption Proceedings Under Section 12(h) of the Securities Exchange Act of 1934

308.138 Scope.

308.139 Application for exemption.

308.140 Newspaper notice.

308.141 Notice of hearing.

308.142 Hearing.

308.143 Decision of Board of Directors.

Subpart K—Procedures Applicable to Investigations Pursuant to Section 10(c) of the FDIA

308.144 Scope.

308.145 Conduct of investigation.

308.146 Powers of person conducting investigation.

308.147 Investigations confidential.

308.148 Rights of witnesses.

308.149 Service of subpoena.

308.150 Transcripts.

Subpart L—Procedures and Standards Applicable to a Notice of Change in Senior Executive Officer or Director Pursuant to Section 32 of the FDIA

308.151 Scope.

308.152 Grounds for disapproval of notice.

308.153 Procedures where notice of disapproval issues pursuant to §303.103(c) of this chapter.

308.154 Decision on review.

308.155 Hearing.

Subpart M—Procedures and Standards Applicable to an Application Pursuant to Section 19 of the FDIA

308.156 Scope.

308.157 Relevant considerations.

308.158 Filing papers and effective date.

308.159 Denial of applications.

308.160 Hearings.

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

308.161 Scope.

308.162 Relevant considerations.

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

308.164 Hearings.

Subpart O—Liability of Commonly Controlled Depository Institutions

308.165 Scope.

308.166 Grounds for assessment of liability.

308.167 Notice of assessment of liability.

308.168 Effective date of and payment under an order to pay.

Subpart P—Rules and Procedures Relating to the Recovery of Attorney Fees and Other Expenses

308.169 Scope.

308.170 Filing, content, and service of documents.

308.171 Responses to application.

308.172 Eligibility of applicants.

308.173 Prevailing party.

308.174 Standards for awards.

308.175 Measure of awards.

308.176 Application for awards.

308.177 Statement of net worth.

308.178 Statement of fees and expenses.

308.179 Settlement negotiations.

308.180 Further proceedings.

308.181 Recommended decision.

308.182 Board of Directors action.

308.183 Payment of awards.

Subpart Q—Issuance and Review of Orders Pursuant to the Prompt Corrective Action Provisions of the Federal Deposit Insurance Act

308.200 Scope.

308.201 Directives to take prompt corrective action.

308.202 Procedures for reclassifying a bank based on criteria other than capital.

308.203 Order to dismiss a director or senior executive officer.

§ 308.1

12 CFR Ch. III (1–1–05 Edition)

308.204 Enforcement of directives.

Subpart R—Submission and Review of Safety and Soundness Compliance Plans and Issuance of Orders To Correct Safety and Soundness Deficiencies

308.300 Scope.

308.301 Purpose.

308.302 Determination and notification of failure to meet a safety and soundness standard and request for compliance plan.

308.303 Filing of safety and soundness compliance plan.

308.304 Issuance of orders to correct deficiencies and to take or refrain from taking other actions.

308.305 Enforcement of orders.

Subpart S—Applications for a Stay or Review of Actions of Bank Clearing Agencies

308.400 Scope.

308.401 Applications for stays of disciplinary sanctions or summary suspensions by a bank clearing agency.

308.402 Applications for review of final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by bank clearing agencies.

Subpart T—Program Fraud Civil Remedies and Procedures

308.500 Basis, purpose, and scope.

308.501 Definitions.

308.502 Basis for civil penalties and assessments.

308.503 Investigations.

308.504 Review by the reviewing official.

308.505 Prerequisites for issuing a complaint.

308.506 Complaint.

308.507 Service of complaint.

308.508 Answer.

308.509 Default upon failure to file an answer.

308.510 Referral of complaint and answer to the ALJ.

308.511 Notice of hearing.

308.512 Parties to the hearing.

308.513 Separation of functions.

308.514 Ex parte contacts.

308.515 Disqualification of reviewing official or ALJ.

308.516 Rights of parties.

308.517 Authority of the ALJ.

308.518 Prehearing conferences.

308.519 Disclosure of documents.

308.520 Discovery.

308.521 Exchange of witness lists, statements, and exhibits.

308.522 Subpoenas for attendance at hearing.

308.523 Protective order.

308.524 Witness fees.

308.525 Form, filing, and service of papers.

308.526 Computation of time.

308.527 Motions.

308.528 Sanctions.

308.529 The hearing and burden of proof.

308.530 Determining the amount of penalties and assessments.

308.531 Location of hearing.

308.532 Witnesses.

308.533 Evidence.

308.534 The record.

308.535 Post-hearing briefs.

308.536 Initial decision.

308.537 Reconsideration of initial decision.

308.538 Appeal to the Board of Directors.

308.539 Stays ordered by the Department of Justice.

308.540 Stay pending appeal.

308.541 Judicial review.

308.542 Collection of civil penalties and assessments.

308.543 Right to administrative offset.

308.544 Deposit in Treasury of United States.

308.545 Compromise or settlement.

308.546 Limitations.

Subpart U—Removal, Suspension, and Debarment of Accountants From Performing Audit Services

308.600 Scope.

308.601 Definitions.

308.602 Removal, suspension, or debarment.

308.603 Automatic removal, suspension, and debarment.

308.604 Notice of removal, suspension, or debarment.

308.605 Application for reinstatement.

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Subpart A—Uniform Rules of Practice and Procedure

§ 308.1 Scope.

This subpart prescribes rules of practice and procedure applicable to adjudicatory proceedings as to which hearings on the record are provided for by the following statutory provisions:

Federal Deposit Insurance Corporation

§ 308.2

(a) Cease-and-desist proceedings under section 8(b) of the Federal Deposit Insurance Act ("FDIA") (12 U.S.C. 1818(b));

(b) Removal and prohibition proceedings under section 8(e) of the FDIA (12 U.S.C. 1818(e));

(c) Change-in-control proceedings under section 7(j)(4) of the FDIA (12 U.S.C. 1817(j)(4)) to determine whether the Federal Deposit Insurance Corporation ("FDIC"), should issue an order to approve or disapprove a person's proposed acquisition of an institution and/or institution holding company;

(d) Proceedings under section 15C(c)(2) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78o-5), to impose sanctions upon any government securities broker or dealer or upon any person associated or seeking to become associated with a government securities broker or dealer for which the FDIC is the appropriate regulatory agency;

(e) Assessment of civil money penalties by the FDIC against institutions, institution-affiliated parties, and certain other persons for which it is the appropriate regulatory agency for any violation of:

(1) Sections 22(h) and 23 of the Federal Reserve Act ("FRA"), or any regulation issued thereunder, and certain unsafe or unsound practices or breaches of fiduciary duty, pursuant to 12 U.S.C. 1828(j);

(2) Section 106(b) of the Bank Holding Company Act Amendments of 1970 ("BHCA Amendments of 1970"), and certain unsafe or unsound practices or breaches of fiduciary duty, pursuant to 12 U.S.C. 1972(2)(F);

(3) Any provision of the Change in Bank Control Act of 1978, as amended (the "CBCA"), or any regulation or order issued thereunder, and certain unsafe or unsound practices, or breaches of fiduciary duty, pursuant to 12 U.S.C. 1817(j)(16);

(4) Section 7(a)(1) of the FDIA, pursuant to 12 U.S.C. 1817(a)(1);

(5) Any provision of the International Lending Supervision Act of 1983 ("ILSA"), or any rule, regulation or order issued thereunder, pursuant to 12 U.S.C. 3909;

(6) Any provision of the International Banking Act of 1978 ("IBA"), or any

rule, regulation or order issued thereunder, pursuant to 12 U.S.C. 3108;

(7) Certain provisions of the Exchange Act, pursuant to section 21B of the Exchange Act (15 U.S.C. 78u-2);

(8) Section 1120 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") (12 U.S.C. 3349), or any order or regulation issued thereunder;

(9) The terms of any final or temporary order issued under section 8 of the FDIA or of any written agreement executed by the FDIC, the terms of any condition imposed in writing by the FDIC in connection with the grant of an application or request, certain unsafe or unsound practices or breaches of fiduciary duty, or any law or regulation not otherwise provided herein pursuant to 12 U.S.C. 1818(i)(2);

(10) Any provision of law referenced in section 102(f) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)) or any order or regulation issued thereunder; and

(11) Any provision of law referenced in 31 U.S.C. 5321 or any order or regulation issued thereunder;

(f) Remedial action under section 102(g) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(g)); and

(g) This subpart also applies to all other adjudications required by statute to be determined on the record after opportunity for an agency hearing, unless otherwise specifically provided for in the Local Rules.

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§ 308.2 Rules of construction.

For purposes of this subpart:

(a) Any term in the singular includes the plural, and the plural includes the singular, if such use would be appropriate;

(b) Any use of a masculine, feminine, or neuter gender encompasses all three, if such use would be appropriate;

(c) The term *counsel* includes a non-attorney representative; and

(d) Unless the context requires otherwise, a party's counsel of record, if any, may, on behalf of that party, take any action required to be taken by the party.