

§ 308.149

(c) All persons testifying shall be sequestered. Such persons and their counsel shall not be present during the testimony of any other person, unless permitted in the discretion of the person conducting the investigation;

(d) In cases of a perceived or actual conflict of interest arising out of an attorney's or law firm's representation of multiple witnesses, the person conducting the investigation may require the attorney to comply with the provisions of §308.8 of the Uniform Rules; and

(e) Witness fees shall be paid in accordance with §308.14 of the Uniform Rules.

[56 FR 37975, Aug. 9, 1991, as amended at 64 FR 62100, Nov. 16, 1999]

§ 308.149 Service of subpoena.

Service of a subpoena shall be accomplished in accordance with §308.11 of the Uniform Rules.

§ 308.150 Transcripts.

(a) *General rule.* Transcripts of testimony, if any, in an investigation pursuant to section 10(c) shall be recorded by an official reporter, or by any other person or means designated by the person conducting the investigation. A witness may, solely for the use and benefit of the witness, obtain a copy of the transcript of his or her testimony at the conclusion of the investigation or, at the discretion of the person conducting the investigation, at an earlier time, provided the transcript is available. The witness requesting a copy of his or her testimony shall bear the cost thereof.

(b) *Subscription by witness.* The transcript of testimony shall be subscribed by the witness, unless the person conducting the investigation and the witness, by stipulation, have waived the signing, or the witness is ill, cannot be found, or has refused to sign. If the transcript of the testimony is not subscribed by the witness, the official reporter taking the testimony shall certify that the transcript is a true and complete transcript of the testimony.

12 CFR Ch. III (1-1-05 Edition)

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.

The rules and procedures set forth in this subpart shall apply to the notice filed by a state nonmember bank pursuant to section 32 of the FDIA (12 U.S.C. 1831i) and §303.102 of this chapter for the consent of the FDIC to add or replace an individual on the Board of Directors, or to employ any individual as a senior executive officer, or change the responsibilities of any individual to a position of senior executive officer where:

(a) The bank is not in compliance with all minimum capital requirements applicable to it as determined by the FDIC on the basis of such institution's most recent report of condition or report of examination or inspection;

(b) The bank is in a troubled condition as defined in §303.101(c) of this chapter; or

(c) The FDIC determines, in connection with the review of a capital restoration plan required under section 38(e)(2) of the FDIA (12 U.S.C. 1831o(e)(2)) or otherwise, that such prior notice is appropriate.

[64 FR 62100, Nov. 16, 1999]

§ 308.152 Grounds for disapproval of notice.

The Board of Directors or its designee may issue a notice of disapproval with respect to a notice submitted by a state nonmember bank pursuant to section 32 of the FDIA (12 U.S.C. 1831i) where:

(a) The competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the depositors of the state nonmember bank to permit the individual to be employed by or associated with such bank; or

(b) The competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the public to