Federal Deposit Insurance Corporation

§ 308.3 Definitions.

For purposes of this subpart, unless explicitly stated to the contrary:

(a) **Administrative law judge** means one who presides at an administrative hearing under authority set forth at 5 U.S.C. 556.

(b) **Adjudicatory proceeding** means a proceeding conducted pursuant to these rules and leading to the formulation of a final order other than a regulation.

(c) **Board of Directors or Board** means the Board of Directors of the Federal Deposit Insurance Corporation or its designee.

(d) **Decisional employee** means any member of the Federal Deposit Insurance Corporation’s or administrative law judge’s staff who has not engaged in an investigative or prosecutorial role in a proceeding and who may assist the Board of Directors or the administrative law judge, respectively, in preparing orders, recommended decisions, decisions, and other documents under the Uniform Rules.

(e) **Designee of the Board of Directors** means any individual who files a notice of appearance as counsel on behalf of the FDIC in an adjudicatory proceeding.
(g) Executive Secretary means the Executive Secretary of the Federal Deposit Insurance Corporation or his or her designee.

(h) FDIC means the Federal Deposit Insurance Corporation.

(i) Final order means an order issued by the FDIC with or without the consent of the affected institution or the institution-affiliated party, that has become final, without regard to the pendency of any petition for reconsideration or review.

(j) Institution includes:

(1) Any bank as that term is defined in section 3(a) of the FDIA (12 U.S.C. 1813(a));

(2) Any bank holding company or any subsidiary (other than a bank) of a bank holding company as those terms are defined in the BHCA (12 U.S.C. 1841 et seq.);

(3) Any savings association as that term is defined in section 3(b) of the FDIA (12 U.S.C. 1813(b)), any savings and loan holding company or any subsidiary thereof (other than a bank) as those terms are defined in section 10(a) of the HOLA (12 U.S.C. 1467(a));

(4) Any organization operating under section 25 of the FRA (12 U.S.C. 601 et seq.);

(5) Any foreign bank or company to which section 8 of the IBA (12 U.S.C. 3106), applies or any subsidiary (other than a bank) thereof; and

(6) Any federal agency as that term is defined in section 1(b) of the IBA (12 U.S.C. 3101(5)).

(k) Institution-affiliated party means any institution-affiliated party as that term is defined in section 3(u) of the FDIA (12 U.S.C. 1813(u)).

(l) Local Rules means those rules promulgated by the FDIC in those subparts of this part other than subpart A.

(m) Office of Financial Institution Adjudication (“OFIA”) means the executive body charged with overseeing the administration of administrative enforcement proceedings of the Office of the Comptroller of the Currency (“OCC”), the Board of Governors of the Federal Reserve Board (“FRB”), the FDIC, the Office of Thrift Supervision (“OTS”) and the National Credit Union Administration (“NCUA”).

(n) Party means the FDIC and any person named as a party in any notice.

(o) Person means an individual, sole proprietor, partnership, corporation, unincorporated association, trust, joint venture, pool, syndicate, agency or other entity or organization, including an institution as defined in paragraph (j) of this section.

(p) Respondent means any party other than the FDIC.

(q) Uniform Rules means those rules in subpart A of this part that pertain to the types of formal administrative enforcement actions set forth at §308.01 and as specified in subparts B through P of this part.

(r) Violation includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding orabetting a violation.

§ 308.4 Authority of Board of Directors.

The Board of Directors may, at any time during the pendency of a proceeding, perform, direct the performance of, or waive performance of, any act which could be done or ordered by the administrative law judge.

§ 308.5 Authority of the administrative law judge.

(a) General rule. All proceedings governed by this part shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. The administrative law judge shall have all powers necessary to conduct a proceeding in a fair and impartial manner and to avoid unnecessary delay.

(b) Powers. The administrative law judge shall have all powers necessary to conduct the proceeding in accordance with paragraph (a) of this section, including the following powers:

(1) To administer oaths and affirmations;

(2) To issue subpoenas, subpoenas duces tecum, and protective orders, as authorized by this part, and to quash or modify any such subpoenas and orders;

(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;

(4) To take or cause depositions to be taken as authorized by this subpart;