

§ 201.420

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that a prejudicial error was committed in the conduct of the proceeding or that the decision embodies an exercise of discretion or decision of law or policy that is important and that the Commission should review.

(f) *Failure to obtain a majority.* In the event a majority of participating Commissioners do not agree to a disposition on the merits, the initial decision shall be of no effect, and an order will be issued in accordance with this result.

[60 FR 32796, June 23, 1995, as amended at 69 FR 13179, Mar. 19, 2004; 70 FR 72570, Dec. 5, 2005]

§ 201.420 Appeal of determinations by self-regulatory organizations.

(a) *Application for review; when available.* An application for review by the Commission may be filed by any person who is aggrieved by a self-regulatory organization determination as to which a notice is required to be filed with the Commission pursuant to Section 19(d)(1) of the Exchange Act, 15 U.S.C. 78s(d)(1). Such determinations include any:

- (1) Final disciplinary sanction;
- (2) Denial or conditioning of membership or participation;
- (3) Prohibition or limitation in respect to access to services offered by that self-regulatory organization or a member thereof; or
- (4) Bar from association.

(b) *Procedure.* As required by section 19(d)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(d)(1), an applicant must file an application for review with the Commission within 30 days after the notice of the determination is filed with the Commission and received by the aggrieved person applying for review. The Commission will not extend this 30-day period, absent a showing of extraordinary circumstances. This section is the exclusive remedy for seeking an extension of the 30-day period.

(c) *Application.* The application shall be filed with the Commission pursuant to § 201.151. The applicant shall serve the application on the self-regulatory organization. The application shall identify the determination complained of and set forth in summary form a brief statement of the alleged errors in

the determination and supporting reasons therefor. The application shall state an address where the applicant can be served. The application should not exceed two pages in length. If the applicant will be represented by a representative, the application shall be accompanied by the notice of appearance required by § 201.102(d).

(d) *Determination not stayed.* Filing an application for review with the Commission pursuant to paragraph (b) of this section shall not operate as a stay of the complained of determination made by the self-regulatory organization unless the Commission otherwise orders either pursuant to a motion filed in accordance with § 201.401 or on its own motion.

(e) *Certification of the record; service of the index.* Fourteen days after receipt of an application for review or a Commission order for review, the self-regulatory organization shall certify and file with the Commission one copy of the record upon which the action complained of was taken, and shall file with the Commission three copies of an index to such record, and shall serve upon each party one copy of the index.

[60 FR 32796, June 23, 1995, as amended at 69 FR 13179, Mar. 19, 2004]

§ 201.421 Commission consideration of determinations by self-regulatory organizations.

(a) *Commission review other than pursuant to a petition for review.* The Commission may, on its own initiative, order review of any determination by a self-regulatory organization that could be subject to an application for review pursuant to § 201.420(a) within 40 days after notice thereof was filed with the Commission pursuant to Section 19(d)(1) of the Exchange Act, 15 U.S.C. 78s(d)(1).

(b) *Supplemental briefing.* The Commission may at any time prior to issuance of its decision raise or consider any matter that it deems material, whether or not raised by the parties. Notice to the parties and an opportunity for supplemental briefing with respect to issues not briefed by the parties shall be given where the Commission believes that such briefing would significantly aid the decisional process.