

§ 201.531

apply to preparation of an initial decision as to whether such order should be made permanent:

(a) Proposed findings and conclusions and briefs in support thereof shall be filed 30 days after the close of the hearing;

(b) The record in the proceedings shall be served by the Secretary upon the hearing officer three days after the date for the filing of the last brief called for by the hearing officer; and

(c) The initial decision shall be filed with the Secretary at the earliest possible time, but in no event more than 30 days after service of the record, unless the hearing officer, by order, shall extend the time for good cause shown for a period not to exceed 30 days.

§ 201.531 Initial decision on permanent order: Effect on temporary order.

(a) *Specification of permanent sanction.* If, at the time an initial decision is issued, a temporary sanction is in effect as to any respondent, the initial decision shall specify:

(1) Which terms or conditions of a temporary cease-and-desist order, if any, shall become permanent; and

(2) Whether a temporary suspension of a respondent's registration, if any, shall be made a permanent revocation of registration.

(b) *Modification of temporary order.* If any temporary sanction shall not become permanent under the terms of the initial decision, the hearing officer shall issue a separate order setting aside, limiting or suspending the temporary sanction then in effect in accordance with the terms of the initial decision. The hearing officer shall decline to suspend a term or condition of a temporary cease-and-desist order if it is found that the continued effectiveness of such term or condition is necessary to effectuate any term of the relief ordered in the initial decision, including the payment of disgorgement, interest or penalties. An order modifying temporary sanctions shall be effective 14 days after service. Within one week of service of the order modifying temporary sanctions any party may seek a stay or modification of the order from the Commission pursuant to § 201.401.

17 CFR Ch. II (4-1-10 Edition)

§ 201.540 Appeal and Commission review of initial decision making a temporary order permanent.

(a) *Petition for review.* Any person who seeks Commission review of an initial decision as to whether a temporary sanction shall be made permanent shall file a petition for review pursuant to § 201.410, provided, however, that the petition must be filed within 10 days after service of the initial decision.

(b) *Review procedure.* If the Commission determines to grant or order review, it shall issue a briefing schedule order pursuant to § 201.450. Unless otherwise ordered by the Commission, opening briefs shall be filed within 21 days of the order granting or ordering review, and opposition briefs shall be filed within 14 days after opening briefs are filed. Reply briefs shall be filed within seven days after opposition briefs are filed. Oral argument, if granted by the Commission, shall be held within 90 days of the issuance of the briefing schedule order.

§ 201.550 Summary suspensions pursuant to Exchange Act Section 12(k)(1)(A).

(a) *Petition for termination of suspension.* Any person adversely affected by a suspension pursuant to Section 12(k)(1)(A) of the Exchange Act, 15 U.S.C. 78l(k)(1)(A), who desires to show that such suspension is not necessary in the public interest or for the protection of investors may file a sworn petition with the Secretary, requesting that the suspension be terminated. The petition shall set forth the reasons why the petitioner believes that the suspension of trading should not continue and state with particularity the facts upon which the petitioner relies.

(b) *Commission consideration of a petition.* The Commission, in its discretion, may schedule a hearing on the matter, request additional written submissions, or decide the matter on the facts presented in the petition and any other relevant facts known to the Commission. If the petitioner fails to cooperate with, obstructs, or refuses to permit the making of an examination by the Commission, such conduct shall be grounds to deny the petition.