

§ 201.900

Disclosure of Assets and Financial Information Form (*see* Form D-A at §209.1 of this chapter) or any other form, may specify other time periods for which disclosure is required, and may require such other information as deemed necessary to evaluate a claim of inability to pay.

(c) *Confidentiality.* Any respondent submitting financial information pursuant to this section or §201.410(c) may make a motion, pursuant to §201.322, for the issuance of a protective order against disclosure of the information submitted to the public or to any parties other than the Division of Enforcement. Prior to a ruling on the motion, no party receiving information as to which a motion for a protective order has been made may transfer or convey the information to any other person without the prior permission of the Commission or the hearing officer.

(d) *Service required.* Notwithstanding any provision of §201.322, a copy of the financial disclosure statement shall be served on the Division of Enforcement.

(e) *Failure to file required financial information: sanction.* Any respondent who, after making a claim of inability to pay either disgorgement, interest or a penalty, fails to file a financial disclosure statement when such a filing has been ordered or is required by rule may, in the discretion of the Commission or the hearing officer, be deemed to have waived the claim of inability to pay. No sanction pursuant to §§201.155 or 201.180 shall be imposed for a failure to file such a statement.

INFORMAL PROCEDURES AND SUPPLEMENTARY INFORMATION CONCERNING ADJUDICATORY PROCEEDINGS

§ 201.900 Informal Procedures and Supplementary Information Concerning Adjudicatory Proceedings.

(a) *Guidelines for the timely completion of proceedings.*(1) Timely resolution of adjudicatory proceedings is one factor in assessing the effectiveness of the adjudicatory program in protecting investors, promoting public confidence in the securities markets and assuring respondents a fair hearing. Establishment of guidelines for the timely completion of key phases of contested administrative proceedings provides a standard for both the Commission and

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the public to gauge the Commission's adjudicatory program on this criterion. The Commission has directed that, to the extent possible:

(i) A decision by the Commission on review of an interlocutory matter should be completed within 45 days of the date set for filing the final brief on the matter submitted for review.

(ii) A decision by the Commission on a motion to stay a decision that has already taken effect or that will take effect within five days of the filing of the motion, should be issued within five days of the date set for filing of the opposition to the motion for a stay. If the decision complained of has not taken effect, the Commission's decision should be issued within 45 days of the date set for filing of the opposition to the motion for a stay.

(iii) Ordinarily, a decision by the Commission with respect to an appeal from the initial decision of a hearing officer, a review of a determination by a self-regulatory organization, or a remand of a prior Commission decision by a court of appeals should be issued within seven months from the date the petition for review, application for review, or mandate of the court is filed, unless the Commission determines that the matter presents unusual complicating circumstances, in which case a decision by the Commission on the matter may be issued within 11 months from the date the petition for review, application for review, or mandate of the court is filed. The Commission retains discretion to take additional time to dispose of an appeal from the initial decision of a hearing officer, a review of a determination by a self-regulatory organization, or a remand of a prior Commission decision by a court of appeals when the Commission determines that extraordinary facts and circumstances of the matter so require. The deadlines in §201.900 confer no substantive rights on the parties.

(2) The guidelines in this paragraph (a) do not create a requirement that each portion of a proceeding or the entire proceeding be completed within the periods described. Among other reasons, a proceeding at either the hearing stage or on review by the Commission may require additional time

because it is unusually complex or because the record is exceptionally long. In addition, fairness is enhanced if the Commission's deliberative process is not constrained by an inflexible schedule. In some proceedings, deliberation may be delayed by the need to consider more urgent matters, to permit the preparation of dissenting opinions, or for other good cause. The guidelines will be used by the Commission as one of several criteria in monitoring and evaluating its adjudicatory program. The guidelines will be examined periodically, and, if necessary, readjusted in light of changes in the pending caseload and the available level of staff resources.

(b) *Reports to the Commission on pending cases.* The administrative law judges, the Secretary and the General Counsel have each been delegated authority to issue certain orders or adjudicate certain proceedings. See 17 CFR 200.30-1 *et seq.* Proceedings are also assigned to the General Counsel for the preparation of a proposed order or opinion which will then be recommended to the Commission for consideration. In order to improve accountability by and to the Commission for management of the docket, the Commission has directed that confidential status reports with respect to all filed adjudicatory proceedings shall be made periodically to the Commission. These reports will be made through the Secretary, with a minimum frequency established by the Commission. In connection with these periodic reports, if a proceeding pending before the Commission has not been concluded within 30 days of the guidelines established in paragraph (a) of this section, the General Counsel shall specifically apprise the Commission of that fact, and shall describe the procedural posture of the case, project an estimated date for conclusion of the proceeding, and provide such other information as is necessary to enable the Commission to determine whether additional steps are necessary to reach a fair and timely resolution of the matter.

(c) *Publication of information concerning the pending case docket.* Ongoing disclosure of information about the adjudication program caseload increases

awareness of the importance of the program, facilitates oversight of the program and promotes confidence in the efficiency and fairness of the program by investors, securities industry participants, self-regulatory organizations and other members of the public. The Commission has directed the Secretary to publish in the *SEC Docket* in the first and seventh months of each fiscal year summary statistical information about the status of pending adjudicatory proceedings and changes in the Commission's caseload over the prior six months. The report will include the number of cases pending before the administrative law judges and the Commission at the beginning and end of the six-month period. The report will also show increases in the caseload arising from new cases being instituted, appealed or remanded to the Commission and decreases in the caseload arising from the disposition of proceedings by issuance of initial decisions, issuance of final decisions issued on appeal of initial decisions, other dispositions of appeals of initial decisions, final decisions on review of self-regulatory organization determinations, other dispositions on review of self-regulatory organization determinations, and decisions with respect to stays or interlocutory motions. For each category of decision, the report shall also show the median age of the cases at the time of the decision and the number of cases decided within the guidelines for the timely completion of adjudicatory proceedings.

[60 FR 32796, June 23, 1995, as amended at 68 FR 35789, June 17, 2003; 70 FR 72570, Dec. 5, 2005]

Subpart E—Adjustment of Civil Monetary Penalties

AUTHORITY: 28 U.S.C. 2461 note.

SOURCE: 61 FR 57774, Nov. 8, 1996, unless otherwise noted.

§ 201.1001 Adjustment of civil monetary penalties—1996.

As required by the Debt Collection Improvement Act of 1996, the maximum amounts of all civil monetary penalties under the Securities Act of 1933, the Securities Exchange Act of