

Federal Deposit Insurance Corporation

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or contumacious conduct or has otherwise violated any provision of this part during the course of an investigative proceeding or formal examination proceeding; and the Board of Directors may take such action as the circumstances warrant, including the exclusion of counsel from further participation in such proceeding.

§ 390.86 Subpoenas.

(a) *Service.* Service of a subpoena in connection with any investigative proceeding or formal examination proceeding shall be effected in the following manner:

(1) *Service upon a natural person.* Service of a subpoena upon a natural person may be effected by handing it to such person; by leaving it at his office with the person in charge thereof, or, if there is no one in charge, by leaving it in a conspicuous place therein; by leaving it at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein; by mailing it to him by registered or certified mail or by an express delivery service at his last known address; or by any method whereby actual notice is given to him.

(2) *Service upon other persons.* When the person to be served is not a natural person, service of the subpoena may be effected by handing the subpoena to a registered agent for service, or to any officer, director, or agent in charge of any office of such person; by mailing it to any such representative by registered or certified mail or by an express delivery service at his last known address; or by any method whereby actual notice is given to such person.

(b) *Motions to quash.* Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of such subpoena, apply to the General Counsel or his designee to quash or modify such subpoena, accompanying such application with a statement of the reasons therefor. The General Counsel or his designee, as appropriate, may:

- (1) Deny the application;
- (2) Quash or revoke the subpoena;
- (3) Modify the subpoena; or
- (4) Condition the granting of the application on such terms as the General

Counsel or his designee determines to be just, reasonable, and proper.

(c) *Attendance of witnesses.* Subpoenas issued in connection with an investigative proceeding or formal examination proceeding may require the attendance and/or testimony of witnesses from any State or territory of the United States and the production by such witnesses of documentary or other tangible evidence at any designated place where the proceeding is being (or is to be) conducted. Foreign nationals are subject to such subpoenas if such service is made upon a duly authorized agent located in the United States.

(d) *Witness fees and mileage.* Witnesses summoned in any proceeding under this part shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Such fees and mileage need not be tendered when the subpoena is issued on behalf of the FDIC by any of its designated representatives.

Subpart E—Practice Before the FDIC

§ 390.90 Scope of subpart.

This subpart prescribes rules with regard to general practice before the FDIC on one's own behalf or in a representative capacity and prescribes rules describing the circumstances under which attorneys, accountants, appraisers, or other persons may be suspended or debarred, either temporarily or permanently, from practicing before the FDIC. In connection with any particular matter, reference also should be made to any special requirements of procedure and practice that may be contained in the particular statute involved or the rules and forms adopted by the FDIC thereunder, which special requirements are controlling. In addition to any suspension hereunder, a person may be excluded from further participation under parts 390 and 391 from an adjudicatory proceeding in accordance with § 390.35(a)(1), from a removal hearing in accordance with § 390.12, or from an investigatory proceeding in accordance with § 390.84(b)(2). Furthermore, no person who has been suspended or debarred from practice before the FDIC in accordance with the provisions of

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this subpart may submit to the FDIC, either directly or on behalf of an interested party, any written documents or petitions otherwise permitted under the Administrative Procedure Act.

§ 390.91 Definitions.

As used in this subpart:

Attorney means any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth or the District of Columbia;

Executive Secretary means the Executive Secretary of the FDIC;

FDIC means the Federal Deposit Insurance Corporation;

OTS means the Office of Thrift Supervision;

Practice means transacting any business with the FDIC, including:

(1) The representation of another person at any adjudicatory, investigatory, removal or rulemaking proceeding conducted before the FDIC, a presiding officer or the FDIC's staff, including those proceedings covered in subparts B, C, and D;

(2) The preparation of any statement, opinion, financial statement, appraisal report, audit report, or other document or report by any attorney, accountant, appraiser or other licensed expert which is filed with or submitted to the FDIC, with such expert's consent or knowledge in connection with any application or other filing with the FDIC;

(3) A presentation to the FDIC, a presiding officer or the FDIC's staff at a conference or meeting relating to an association's or other person's rights, privileges or liabilities under the laws administered by the FDIC and rules and regulations promulgated thereunder;

(4) Any business correspondence or communication with the FDIC, a presiding officer or the FDIC's staff;

(5) The transaction of any other formal business with the FDIC on behalf of another, in the capacity of an attorney, accountant, appraiser or other licensed expert; and

Presiding officer includes the Board of Directors or an administrative law judge appointed under section 3105 or detailed pursuant to section 3344 of title 5 of the U.S. Code and, as used in this subpart, the term shall be con-

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strued to refer to whichever of the above-identified individuals presides at a hearing or other proceeding, except as otherwise specified in the text.

§ 390.92 Who may practice.

(a) *By non-attorneys.* (1) An individual may appear on his own behalf (*pro se*); a member of a partnership may represent the partnership; a bona fide and duly authorized officer of a corporation, trust or association may represent the corporation, trust or association; and an officer or employee of a commission, department or political subdivision may represent that commission, department or political subdivision before the FDIC.

(2) Any accountant, appraiser or other licensed expert may practice before the FDIC in a professional capacity.

(b) *By attorneys.* Any association or other person may be represented in any proceeding or other matter before the FDIC by an attorney.

(c) *Authority to act as representative.* Any licensed expert or professional transacting business with the FDIC in a representative capacity may be required to show his authority to act in such capacity.

§ 390.93 Suspension and debarment.

(a) The FDIC may censure any person practicing before it or may deny, temporarily or permanently, the privilege of any person to practice before it if such person is found by the FDIC, after notice of and opportunity for hearing in the matter,

(1) Not to possess the requisite qualifications to represent others,

(2) To be lacking in character or professional integrity,

(3) To have engaged in any dilatory, obstructionist, egregious, contemptuous, contumacious or other unethical or improper professional conduct before the OTS or FDIC, or

(4) To have willfully violated, or willfully aided and abetted the violation of, any provision of the laws administered by the OTS or FDIC or the rules and regulations promulgated thereunder.

(b) *Automatic suspension.* (1) Any person who, after being licensed as a professional or expert by any competent

authority, has been convicted of a felony, or of a misdemeanor involving moral turpitude, personal dishonesty or breach of trust, shall be suspended forthwith from practicing before the FDIC.

(2) Any accountant, appraiser or other licensed expert whose license to practice has been revoked in any State, possession, territory, Commonwealth or the District of Columbia, shall be suspended forthwith from practice before the FDIC.

(3) Any attorney who has been suspended or disbarred by a court of the United States or in any State, possession, territory, Commonwealth or the District of Columbia, shall be suspended forthwith from practicing before the FDIC.

(4) A conviction (including a judgment or order on a plea of *nolo contendere*), revocation, suspension or disbarment under paragraphs (b)(1), (b)(2) and (b)(3) of this section shall be deemed to have occurred when the convicting, revoking, suspending or disbarring agency or tribunal enters its judgment or order, regardless of whether an appeal is pending or could be taken.

(5) For purposes of this part, it shall be irrelevant that any attorney, accountant, appraiser or other licensed expert who has been suspended, disbarred or otherwise disqualified from practice before a court or in a jurisdiction continues in professional good standing before other courts or in other jurisdictions.

(c) *Temporary suspension.* (1) The FDIC, with due regard to the public interest and without preliminary hearing, by order, may temporarily suspend any person from appearing or practicing before it who, by name, has been:

(i) Permanently enjoined (whether by consent, default or summary judgment or after trial) by any court of competent jurisdiction or by the OTS or FDIC itself in a final administrative order, by reason of his misconduct in any action brought by the OTS or FDIC based upon violations of, or aiding and abetting the violation of, the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1461 *et seq.*, the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811 *et seq.* or any provision of

the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78a, *et seq.*, which is administered by the FDIC, or of any rule or regulation promulgated thereunder; or

(ii) Found by any court of competent jurisdiction (whether by consent, default, or summary judgment, or after trial) in any action brought by the OTS or FDIC to which he is a party or found by the OTS or FDIC (whether by consent, default, upon summary judgment or after hearing) in any administrative proceeding in which the OTS or FDIC is a complainant and he is a party, to have willfully committed, caused or aided or abetted a violation of any provision of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1461 *et seq.*, the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811 *et seq.* or any provision of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78a, *et seq.*, which is administered by the OTS or FDIC, or of any rule or regulation promulgated thereunder.

(2) An order of temporary suspension shall become effective when served by certified or registered mail directed to the last known business or residential address of the person involved. No order of temporary suspension shall be entered by the FDIC pursuant to paragraph (c)(1) of this section more than three months after the final judgment or order entered in a judicial or administrative proceeding described in paragraphs (c)(1)(i) or (ii) of this section has become effective and all review or appeal procedures have been completed or are no longer available.

(3) Any person temporarily suspended from appearing and practicing before the OTS or FDIC in accordance with paragraph (c)(1) of this section may, within 30 days after service upon him of the order of temporary suspension, petition the FDIC to lift such suspension. If no petition is received by the FDIC within those 30 days, the suspension shall become permanent.

(4) Within 30 days after the filing of a petition in accordance with paragraph (c)(3) of this section, the FDIC shall either lift the temporary suspension or set the matter down for hearing at a time and place to be designated by the FDIC, or both. After opportunity for

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hearing, the FDIC may censure the petitioner or may suspend the petitioner from appearing or practicing before the FDIC temporarily or permanently. In every case in which the temporary suspension has not been lifted, the hearing and any other action taken pursuant to this paragraph (c)(4) shall be expedited by the FDIC in order to ensure the petitioner's right to address the allegations against him.

(5) In any hearing held on a petition filed in accordance with paragraph (c)(3) of this section, a showing that the petitioner has been enjoined or has been found to have committed, caused or aided or abetted violations as described in paragraph (c)(1) of this section, without more, may be a basis for suspension or debarment; that showing having been made, the burden shall then be on the petitioner to show why he should not be censured or be temporarily or permanently suspended or debarred. A petitioner will not be permitted to contest any findings against him or any admissions made by him in the judicial or administrative proceedings upon which the proposed censure, suspension or debarment is based. A petitioner who has consented to the entry of a permanent injunction or order as described in paragraph (c)(1)(i) of this section, without admitting the facts set forth in the complaint, shall nevertheless be presumed for all purposes under this section to have been enjoined or ordered by reason of the misconduct alleged in the complaint.

§ 390.94 Reinstatement.

(a) Any person who is suspended from practicing before the OTS or FDIC under § 390.93(a) or (c) may file an application for reinstatement at any time. Denial of the privilege of practicing before the FDIC shall continue unless and until the applicant has been reinstated by order of the FDIC for good cause shown.

(b) Any person suspended under paragraph § 390.93(b) shall be reinstated by the FDIC, upon appropriate application, if all of the grounds for application of the provisions of § 390.93(b) subsequently are removed by a reversal of the conviction or termination of the suspension, disbarment or revocation. An application for reinstatement on

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any other grounds by any person suspended under § 390.93(b) may be filed at any time. Such application shall state with particularity the relief desired and the grounds therefor and shall include supporting evidence, when available. The applicant shall be accorded an opportunity for an informal hearing in the matter, unless the applicant has waived a hearing in the application and, instead, has elected to have the matter determined on the basis of written submissions. Such hearing shall utilize the procedures established in §§ 390.12 and 390.16(a). However, such suspension shall continue unless and until the applicant has been reinstated by order of the FDIC for good cause shown.

§ 390.95 Duty to file information concerning adverse judicial or administrative action.

Any person appearing or practicing before the FDIC who has been or is the subject of a conviction, suspension, debarment, license revocation, injunction or other finding of the kind described in § 390.93(b) or (c) in an action not instituted by the OTS or FDIC shall promptly file a copy of the relevant order, judgment or decree with the Executive Secretary together with any related opinion or statement of the agency or tribunal involved. Any person who fails to so file a copy of the order, judgment or decree within 30 days after the entry of the order, judgment or decree, or the date such person initiates practice before the FDIC, for that reason alone may be disqualified from practicing before the FDIC until such time as the appropriate filing shall be made, but neither the filing of these documents nor the failure of a person to file them shall in any way impair the operation of any other provision of this subpart.

§ 390.96 Proceeding under this subpart.

(a) All hearings required or permitted to be held under § 390.93(a) and (c) of this subpart shall be held before a presiding officer utilizing the procedures established in the rules of practice and procedure in adjudicatory proceedings under subpart C of this part.

(b) All hearings held under this subpart shall be closed to the public unless the FDIC on its own motion or upon the request of a party otherwise directs.

(c) Any proceeding brought under any section of this subpart shall not preclude a proceeding under any other section of this subpart or any other part of the FDIC's regulations.

§ 390.97 Removal, suspension, or debarment of independent public accountants and accounting firms performing audit services.

(a) *Scope.* This subpart, which implements section 36(g)(4) of the Federal Deposit Insurance Act (FDIA), (12 U.S.C. 1831m(g)(4)), provides rules and procedures for the removal, suspension, or debarment of independent public accountants and their accounting firms from performing independent audit and attestation services required by section 36 of the FDIA for insured State savings associations.

(b) *Definitions.* As used in this section, the following terms have the meaning given below unless the context requires otherwise:

Accounting firm. The term *accounting firm* means a corporation, proprietorship, partnership, or other business firm providing audit services.

Audit services. The term *audit services* means any service required to be performed by an independent public accountant by section 36 of the FDIA and part 363, including attestation services. Audit services include any service performed with respect to a savings and loan holding company of a State savings association that is used to satisfy requirements imposed by section 36 of the FDIA or part 363 on that State savings association.

Independent public accountant. The term *independent public accountant* means any individual who performs or participates in providing audit services.

(c) *Removal, suspension, or debarment of independent public accountants.* The FDIC may remove, suspend, or debar an independent public accountant from performing audit services for State savings associations that are subject to section 36 of the FDIA if, after service of a notice of intention and oppor-

tunity for hearing in the matter, the FDIC finds that the independent public accountant:

(1) Lacks the requisite qualifications to perform audit services;

(2) Has knowingly or recklessly engaged in conduct that results in a violation of applicable professional standards, including those standards and conflicts of interest provisions applicable to independent public accountants through the Sarbanes-Oxley Act of 2002, Public Law 107-204, 116 Stat. 745 (2002) (Sarbanes-Oxley Act), and developed by the Public Company Accounting Oversight Board and the Securities and Exchange Commission;

(3) Has engaged in negligent conduct in the form of:

(i) A single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which an independent public accountant knows, or should know, that heightened scrutiny is warranted; or

(ii) Repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to perform audit services;

(4) Has knowingly or recklessly given false or misleading information or knowingly or recklessly participated in any way in the giving of false or misleading information to the FDIC or any officer or employee of the FDIC;

(5) Has engaged in, or aided and abetted, a material and knowing or reckless violation of any provision of the Federal banking or securities laws or the rules and regulations thereunder, or any other law;

(6) Has been removed, suspended, or debarred from practice before any federal or state agency regulating the banking, insurance, or securities industries, other than by action listed in paragraph (j) of this section, on grounds relevant to the provision of audit services; or

(7) Is suspended or debarred for cause from practice as an accountant by any duly constituted licensing authority of any state, possession, commonwealth, or the District of Columbia.

(d) *Removal, suspension or debarment of an accounting firm.* If the FDIC determines that there is good cause for the

removal, suspension, or debarment of a member or employee of an accounting firm under paragraph (c) of this section, the FDIC also may remove, suspend, or debar such firm or one or more offices of such firm. In considering whether to remove, suspend, or debar an accounting firm or office thereof, and the term of any sanction against an accounting firm under this section, the FDIC may consider, for example:

(1) The gravity, scope, or repetition of the act or failure to act that constitutes good cause for the removal, suspension, or debarment;

(2) The adequacy of, and adherence to, applicable policies, practices, or procedures for the accounting firm's conduct of its business and the performance of audit services;

(3) The selection, training, supervision, and conduct of members or employees of the accounting firm involved in the performance of audit services;

(4) The extent to which managing partners or senior officers of the accounting firm have participated, directly or indirectly through oversight or review, in the act or failure to act; and

(5) The extent to which the accounting firm has, since the occurrence of the act or failure to act, implemented corrective internal controls to prevent its recurrence.

(e) *Remedies.* The remedies provided in this section are in addition to any other remedies the FDIC may have under any other applicable provisions of law, rule, or regulation.

(f) *Proceedings to remove, suspend, or debar.* (1) The FDIC may initiate a proceeding to remove, suspend, or debar an independent public accountant or accounting firm from performing audit services by issuing a written notice of intention to take such action that names the individual or firm as a respondent and describes the nature of the conduct that constitutes good cause for such action.

(2) An independent public accountant or accounting firm named as a respondent in the notice issued under paragraph (f)(1) of this section may request a hearing on the allegations in the notice. Hearings conducted under this paragraph shall be conducted in the same manner as other hearings under

the Uniform Rules of Practice and Procedure contained in subpart C.

(g) *Immediate suspension from performing audit services.* (1) If the FDIC serves written notice of intention to remove, suspend, or debar an independent public accountant or accounting firm from performing audit services, the FDIC may, with due regard for the public interest and without preliminary hearing, immediately suspend an independent public accountant or accounting firm from performing audit services for savings associations, if the FDIC:

(i) Has a reasonable basis to believe that the independent public accountant or accounting firm engaged in conduct (specified in the notice served upon the independent public accountant or accounting firm under paragraph (f) of this section) that would constitute grounds for removal, suspension, or debarment under paragraph (c) or (d) of this section;

(ii) Determines that immediate suspension is necessary to avoid immediate harm to an insured depository institution or its depositors or to the depository system as a whole; and

(iii) Serves such independent public accountant or accounting firm with written notice of the immediate suspension.

(2) An immediate suspension notice issued under this paragraph will become effective upon service. Such suspension will remain in effect until the date the FDIC dismisses the charges contained in the notice of intention, or the effective date of a final order of removal, suspension, or debarment issued by the FDIC to the independent public accountant or accounting firm.

(h) *Petition to stay.* (1) Any independent public accountant or accounting firm immediately suspended from performing audit services in accordance with paragraph (g) of this section may, within 10 calendar days after service of the notice of immediate suspension, file a petition with the FDIC for a stay of such suspension. If no petition is filed within 10 calendar days, the immediate suspension shall remain in effect.

(2) Upon receipt of a stay petition, the FDIC will designate a presiding officer who shall fix a place and time

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(not more than 10 calendar days after receipt of such petition, unless extended at the request of the petitioner), at which the immediately suspended party may appear, personally or through counsel, to submit written materials and oral argument. Any FDIC employee engaged in investigative or prosecuting functions for the FDIC in a case may not, in that or a factually related case, serve as a presiding officer or participate or advise in the decision of the presiding officer or of the FDIC, except as witness or counsel in the proceeding. In the sole discretion of the presiding officer, upon a specific showing of compelling need, oral testimony of witnesses may also be presented. In hearings held pursuant to this paragraph, there will be no discovery and the provisions of §§390.35 through 390.41, 390.45, and 390.50 of the Uniform Rules will apply.

(3) Within 30 calendar days after the hearing, the presiding officer shall issue a decision. The presiding officer will grant a stay upon a demonstration that a substantial likelihood exists of the respondent's success on the issues raised by the notice of intention and that, absent such relief, the respondent will suffer immediate and irreparable injury, loss, or damage. In the absence of such a demonstration, the presiding officer will notify the parties that the immediate suspension will be continued pending the completion of the administrative proceedings pursuant to the notice.

(4) The parties may seek review of the presiding officer's decision by filing a petition for review with the presiding officer within 10 calendar days after service of the decision. Replies must be filed within 10 calendar days after the petition filing date. Upon receipt of a petition for review and any reply, the presiding officer must promptly certify the entire record to the Board of Directors. Within 60 calendar days of the presiding officer's certification, the Board of Directors shall issue an order notifying the affected party whether or not the immediate suspension should be continued or reinstated. The order shall state the basis of the Board of Director's decision.

(i) *Scope of any order of removal, suspension, or debarment.* (1) Except as pro-

vided in paragraph (i)(2) of this section, any independent public accountant or accounting firm that has been removed, suspended (including an immediate suspension), or debarred from performing audit services by the FDIC may not, while such order is in effect, perform audit services for any State savings association.

(2) An order of removal, suspension (including an immediate suspension), or debarment may, at the discretion of the FDIC, be made applicable to a limited number of State savings associations. (limited scope order).

(j) *Automatic removal, suspension, and debarment.* (1) An independent public accountant or accounting firm may not perform audit services for a State savings association if the independent public accountant or accounting firm:

(i) Is subject to a final order of removal, suspension, or debarment (other than a limited scope order) issued by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, or the FDIC under section 36 of the FDIA;

(ii) Is subject to a temporary suspension or permanent revocation of registration or a temporary or permanent suspension or bar from further association with any registered public accounting firm issued by the Public Company Accounting Oversight Board or the Securities and Exchange Commission under sections 105(c)(4)(A) or (B) of the Sarbanes-Oxley Act (15 U.S.C. 7215(c)(4)(A) or (B)); or

(iii) Is subject to an order of suspension or denial of the privilege of appearing or practicing before the Securities and Exchange Commission.

(2) Upon written request, the FDIC, for good cause shown, may grant written permission to an independent public accountant or accounting firm to perform audit services for State savings associations. The request must contain a concise statement of action requested. The FDIC may require the applicant to submit additional information.

(k) *Notice of removal, suspension, or debarment.* (1) Upon issuance of a final order for removal, suspension, or debarment of an independent public accountant or accounting firm from providing audit services, the FDIC shall

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make the order publicly available and provide notice of the order to the other Federal banking agencies.

(2) An independent public accountant or accounting firm that provides audit services to a State savings association must provide the FDIC with written notice of:

(i) Any currently effective order or other action described in paragraphs (c)(6) through (c)(7) or paragraphs (j)(1)(ii) through (iii) of this section; and

(ii) Any currently effective action by the Public Company Accounting Oversight Board under sections 105(c)(4)(C) or (G) of the Sarbanes-Oxley Act (15 U.S.C. 7215(c)(4)(C) or (G)).

(3) Written notice required by this paragraph shall be given no later than 15 calendar days following the effective date of an order or action or 15 calendar days before an independent public accountant or accounting firm accepts an engagement to provide audit services, whichever date is earlier.

(1) *Application for reinstatement.* (1) Unless otherwise ordered by the FDIC, an independent public accountant, accounting firm, or office of a firm that was removed, suspended or debarred under this section may apply for reinstatement in writing at any time. The request shall contain a concise statement of action requested. The FDIC may require the applicant to submit additional information.

(2) An applicant for reinstatement under paragraph (1)(1) of this section may, in the FDIC's sole discretion, be afforded a hearing. The independent public accountant or accounting firm shall bear the burden of going forward with an application and the burden of proving the grounds supporting the application. The FDIC may, in its sole discretion, direct that any reinstatement proceeding be limited to written submissions. The removal, suspension, or debarment shall continue until the FDIC, for good cause shown, has reinstated the applicant or until, in the case of a suspension, the suspension period has expired. The filing of a petition for reinstatement shall not stay the effectiveness of the removal, suspension, or debarment of an independent public accountant or accounting firm.

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Subpart F—Application Processing Procedures

§ 390.100 What does this subpart do?

(a) This subpart explains the FDIC's procedures for processing applications, notices, or filings (applications) under parts 390 and 391 for State savings associations. Except as provided in paragraph (b) of this section, §§ 390.103 through 390.110 and §§ 390.126 through 390.135 apply whenever an FDIC regulation requires any person (you) to file an application with the FDIC. Sections 390.111 through 390.125, however, only apply when a FDIC regulation incorporates the procedures in those sections or where otherwise required by the FDIC.

(b) This subpart does not apply to any of the following:

(1) An application related to a transaction under section 13(c) or (k) of the Federal Deposit Insurance Act, 12 U.S.C. 1823(c) or (k).

(2) A request for reconsideration, modification, or appeal of a final FDIC action.

(3) A request related to litigation, an enforcement proceeding, a supervisory directive or supervisory agreement. Such requests include a request seeking approval under, modification of, or termination of an order issued under subparts C or D, a supervisory agreement, a supervisory directive, a consent merger agreement or a document negotiated in settlement of an enforcement matter or other litigation, unless an applicable FDIC regulation specifically requires an application under this subpart.

(4) An application filed under a FDIC regulation that prescribes other application processing procedures and time frames for the approval of applications.

(c) If a FDIC regulation for a specific type of application prescribes some application processing procedures, or time frames, the FDIC will apply this subpart to the extent necessary to process the application. For example, if a FDIC regulation for a specific type of application does not identify time periods for the processing of an application, the time periods in this subpart apply.