

person applying for review. The applicant shall serve the application on the Board at the same time. The application shall identify the determination complained of, set forth in summary form a brief statement of alleged errors in the determination and supporting reasons therefor, and state an address where the applicant can be served. The application should not exceed two pages in length. The notice of appearance required by §201.102(d) shall accompany the application. Any exception to a determination not supported in an opening brief that complies with §201.450(b) may, at the discretion of the Commission, be deemed to have been waived by the applicant.

(c) *Stay of determination.* Filing an application for review with the Commission pursuant to paragraph (b) of this section operates as a stay of the Board's determination unless the Commission otherwise orders either pursuant to a motion filed in accordance with §201.401(e) or upon its own motion.

(d) *Certification of the record; service of the index.* Within fourteen days after receipt of an application for review, the Board shall certify and file electronically in the form and manner to be specified by the Office of the Secretary in the materials posted on the Commission's website one unredacted copy of the record upon which it took the complained-of action.

(1) The Board shall file electronically with the Commission one copy of an index of such record, and shall serve one copy of the index on each party. If such index contains any sensitive personal information, as defined in paragraph (d)(2) of this section, the Board also shall file electronically with the Commission one redacted copy of such index, subject to the requirements of paragraphs (d)(2) of this section.

(2) *Sensitive personal information.* Sensitive personal information is defined as a Social Security number, taxpayer identification number, financial account number, credit card or debit card number, passport number, driver's license number, state-issued identification number, home address (other than city and state), telephone number, date of birth (other than year), names and initials of minor children, as well as any unnecessary health information

identifiable by individual, such as an individual's medical records. Sensitive personal information shall not be included in, and must be redacted or omitted from, all filings subject to:

(i) *Exceptions.* The following information may be included and is not required to be redacted from filings:

(A) The last four digits of a financial account number, credit card or debit card number, passport number, driver's license number, and state-issued identification number;

(B) Home addresses and telephone numbers of parties and persons filing documents with the Commission;

(C) Business telephone numbers; and

(D) Copies of unredacted filings by regulated entities or registrants that are available on the Commission's public website.

(e) *Certification.* Any filing made pursuant to this section, other than the record upon which the action complained of was taken, must include a certification that any information described in paragraph (d)(2) of this section has been omitted or redacted from the filing.

[69 FR 13179, Mar. 19, 2004, as amended at 81 FR 50241, July 29, 2016; 85 FR 86481, Dec. 30, 2020]

#### § 201.441 Commission consideration of Board determinations.

(a) *Commission review other than pursuant to an application for review.* The Commission may, on its own initiative, order review of any final disciplinary sanction, including disapproval of a completed application for registration of a public accounting firm, imposed by the Board that could be subject to an application for review pursuant to §201.440(a) within 40 days after the Board filed notice thereof pursuant to §240.19d-4 of this chapter.

(b) *Supplemental briefing.* The Commission may at any time prior to the issuance of its decision raise or consider any matter that it deems material, whether or not raised by the parties. The Commission will give notice to the parties and an opportunity for supplemental briefing with respect to issues not briefed by the parties where the Commission believes that such

**§ 201.442**

**17 CFR Ch. II (4-1-25 Edition)**

briefing could significantly aid the decisional process.

[69 FR 13179, Mar. 19, 2004]

**§ 201.442 Appeal of determination by security-based swap execution facility.**

(a) *Application for review; when available.* An application for review by the Commission may be filed by any person who is aggrieved by a determination of a security-based swap execution facility with respect to any:

- (1) Final disciplinary action, as defined in § 240.835(b)(1) of this chapter;
- (2) Final action with respect to a denial or conditioning of membership, as defined in § 240.835(b)(2) of this chapter; or
- (3) Final action with respect to a denial or limitation of access to any service offered by the security-based swap execution facility, as defined in § 240.835(b)(2) of this chapter.

(b) *Procedure.* An aggrieved person may file an application for review with the Commission pursuant to § 201.151 within 30 days after the notice filed with the Commission pursuant to § 242.835 of this chapter by the security-based swap execution facility of the determination is received by the aggrieved person. 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. The aggrieved person shall serve the application on the security-based swap execution facility at the same time. The application shall identify the determination complained of, set forth in summary form a statement of alleged errors in the action and supporting reasons therefor, and 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). Any exception to an action not supported in an opening brief that complies with § 201.450(b) may, at the discretion of the Commission, be deemed to have been waived by the applicant.

(c) *Stay of determination.* Filing an application for review with the Commission

pursuant to paragraph (b) of this section operates as a stay of the security-based swap execution facility's determination, unless the Commission otherwise orders either pursuant to a motion filed in accordance with § 201.401(f) or upon its own motion.

(d) *Certification of the record; service of the index.* Within 14 days after receipt of an application for review, the security-based swap execution facility shall certify and file electronically in the form and manner specified by the Office of the Secretary one unredacted copy of the record upon which it took the complained-of action.

(1) The security-based swap execution facility shall file electronically with the Commission one copy of an index of such record in the form and manner specified by the Commission and shall serve one copy of the index on each party. If such index contains any sensitive personal information, as defined in paragraph (d)(2) of this section, the security-based swap execution facility also shall file electronically with the Commission one redacted copy of such index, subject to the requirements of paragraph (d)(2) of this section.

(2) *Sensitive personal information* includes a Social Security number, taxpayer identification number, financial account number, credit card or debit card number, passport number, driver's license number, State-issued identification number, home address (other than city and State), telephone number, date of birth (other than year), names and initials of minor children, as well as any unnecessary health information identifiable by individual, such as an individual's medical records. Sensitive personal information shall not be included in, and must be redacted or omitted from, all filings.

(i) *Exceptions.* The following information may be included and is not required to be redacted from filings:

- (A) The last four digits of a financial account number, credit card or debit card number, passport number, driver's license number, and State-issued identification number;
  - (B) Home addresses and telephone numbers of parties and persons filing documents with the Commission; and
  - (C) Business telephone numbers.
- (ii) [Reserved]