

§ 19.244

filed within 10 calendar days, the immediate suspension shall remain in effect.

(4) *Hearing on petition.* Upon receipt of a stay petition, the Comptroller will designate a presiding officer who shall fix a place and time (not more than 10 calendar days after receipt of the petition, unless extended at the request of petitioner) at which the immediately suspended party may appear, personally or through counsel, to submit written materials and oral argument. Any OCC employee engaged in investigative or prosecuting functions for the OCC 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 OCC, 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 shall be no discovery and the provisions of §§19.6 through 19.12, 19.16, and 19.21 of this part shall apply.

(5) *Decision on petition.* 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.

(6) *Review of presiding officer's decision.* 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 shall promptly certify the entire record to the Comptroller. Within 60 calendar days of the presiding officer's certification, the Com-

12 CFR Ch. I (1–12 Edition)

troller 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 Comptroller's decision.

§ 19.244 Automatic removal, suspension, and debarment.

(a) An independent public accountant or accounting firm may not perform audit services for insured national banks if the accountant or firm:

(1) 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 Federal Deposit Insurance Corporation, or the Office of Thrift Supervision under section 36 of the FDIA.

(2) 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

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

(b) Upon written request, the Comptroller, for good cause shown, may grant written permission to such accountant or firm to perform audit services for national banks. The request shall contain a concise statement of the action requested. The Comptroller may require the applicant to submit additional information.

§ 19.245 Notice of removal, suspension or debarment.

(a) *Notice to the public.* Upon the issuance of a final order for removal, suspension, or debarment of an independent public accountant or accounting firm from providing audit services, the Comptroller shall make the order publicly available and provide notice of the order to the other Federal banking agencies.

(b) *Notice to the Comptroller by accountants and firms.* An accountant or

Comptroller of the Currency, Treasury

§ 21.1

accounting firm that provides audit services to a national bank must provide the Comptroller with written notice of:

(1) Any currently effective order or other action described in §§ 19.243(a)(1)(vi) through (a)(1)(vii) or §§ 19.244(a)(2) through (a)(3); and

(2) 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)).

(c) *Timing of notice.* 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 accountant or firm accepts an engagement to provide audit services, whichever date is earlier.

§ 19.246 Petition for reinstatement.

(a) *Form of petition.* Unless otherwise ordered by the Comptroller, a petition for reinstatement by an independent public accountant, an accounting firm, or an office of a firm that was removed, suspended, or debarred under § 19.243 may be made in writing at any time. The request shall contain a concise statement of the action requested. The Comptroller may require the applicant to submit additional information.

(b) *Procedure.* A petitioner for reinstatement under this section may, in the sole discretion of the Comptroller, be afforded a hearing. The accountant or firm shall bear the burden of going forward with a petition and proving the grounds asserted in support of the petition. In reinstatement proceedings, the person seeking reinstatement shall bear the burden of going forward with an application and proving the grounds asserted in support of the application. The Comptroller may, in his sole discretion, direct that any reinstatement proceeding be limited to written submissions. The removal, suspension, or debarment shall continue until the Comptroller, for good cause shown, has reinstated the petitioner or until 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 accountant or firm.

PART 21—MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF SUSPICIOUS ACTIVITIES, AND BANK SECRECY ACT COMPLIANCE PROGRAM

Subpart A—Minimum Security Devices and Procedures

Sec.

21.1 Purpose and scope of subpart A of this part.

21.2 Designation of security officer.

21.3 Security program.

21.4 Report.

Subpart B—Reports of Suspicious Activities

21.11 Suspicious Activity Report.

Subpart C—Procedures for Monitoring Bank Secrecy Act Compliance

21.21 Procedures for monitoring Bank Secrecy Act (BSA) compliance.

AUTHORITY: 12 U.S.C. 93a, 1818, 1881-1884, and 3401-3422; 31 U.S.C. 5318.

Subpart A—Minimum Security Devices and Procedures

SOURCE: 56 FR 29564, June 28, 1991, unless otherwise noted.

§ 21.1 Purpose and scope of subpart A of this part.

(a) This subpart is issued by the Comptroller of the Currency pursuant to section 3 of the Bank Protection Act of 1968 (12 U.S.C. 1882) and is applicable to all national banking associations. It requires each bank to adopt appropriate security procedures to discourage robberies, burglaries, and larcenies and to assist in identifying and apprehending persons who commit such acts.

(b) It is the responsibility of a bank's board of directors to comply with this regulation and ensure that a security program which equals or exceeds the standards prescribed by this part is developed and implemented for the bank's main office and branches (as the term "branch" is used in 12 U.S.C. 36).

[56 FR 29564, June 28, 1991, as amended at 73 FR 22244, Apr. 24, 2008]