Federal Reserve System

§ 238.111 Scope.

This part prescribes rules of practice and procedure applicable to the conduct of investigative proceedings under section 10(g)(2) of the Home Owners’ Loan Act, as amended, 12 U.S.C. 1467a(g)(2) (‘‘HOLA’’) and to the conduct of formal examination proceedings with respect to savings and loan holding companies and their affiliates under section 5(d)(1)(B) of the HOLA, as amended, 12 U.S.C. 1464(d)(1)(B) or section 7(j)(15) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1817(j)(15) (‘‘FDIA’’), section 8(n) of the FDIA, 12 U.S.C. 1818(n), or section 10(c) of the FDIA, 12 U.S.C. 1820(c). This part does not apply to adjudicatory proceedings as to which hearings are required by statute, the rules for which are contained in part 262 of this chapter.

§ 238.112 Definitions.

As used in this part:
(a) Investigative proceeding means an investigation conducted under section 10(g)(2) of the HOLA;
(b) Formal examination proceeding means the administration of oaths and affirmations, taking and preserving of testimony, requiring the production of books, papers, correspondence, memoranda, and all other records, the issuance of subpoenas, and all related activities in connection with examination of savings and loan holding companies and their affiliates conducted pursuant to section 5(d)(1)(B) of the HOLA, section 7(j)(15) of the FDIA, section 8(n) of the FDIA or section 10(c) of the FDIA; and
(c) Designated representative means the person or persons empowered by the Board to conduct an investigative proceeding or a formal examination proceeding.

§ 238.113 Confidentiality of proceedings.

All formal examination proceedings shall be private and, unless otherwise ordered by the Board, all investigative proceedings shall also be private. Unless otherwise ordered or permitted by the Board, or required by law, and except as provided in §§ 238.114 and 238.115, the entire record of any investigative proceeding or formal examination proceeding, including the resolution of the Board or its delegate(s) authorizing the proceeding, the transcript of such proceeding, and all documents and information obtained by the designated representative(s) during the course of said proceedings shall be confidential.

§ 238.114 Transcripts.

Transcripts or other recordings, if any, of investigative proceedings or formal examination proceedings shall be prepared solely by an official reporter or by any other person or means authorized by the designated representative. A person who has submitted documentary evidence or given testimony in an investigative proceeding or formal examination proceeding may procure a copy of his own documentary evidence or transcript of his own testimony upon payment of the cost thereof; provided, that a person seeking a transcript of his own testimony must file a written request with the Board stating the reason he desires to procure such transcript, and the Board may for good cause deny such request. In any event, any witness (or his counsel) shall have the right to inspect the transcript of the witness’ own testimony.

§ 238.115 Rights of witnesses.

(a) Any person who is compelled or requested to furnish documentary evidence or give testimony at an investigative proceeding or formal examination proceeding shall have the right to examine, upon request, the Board resolution authorizing such proceeding.