

Federal Deposit Insurance Corporation

§ 368.2

§ 367.20 Review and reconsideration of Ethics Counselor decisions.

(a) *Review.* (1) A suspended and/or excluded contractor may appeal the exclusion decision to the Corporation Ethics Committee.

(2) In order to avail itself of the right to appeal, a suspended and/or excluded contractor must file a written notice of intent to appeal within 5 days of the Ethics Counselor's decision.

(3) The appeal shall be filed in writing within 30 days of the decision.

(4) The Corporation Ethics Committee, at its discretion and after determining that it is in the best interests of the FDIC, may stay the effect of the suspension and/or exclusion pending conclusion of its review of the matter.

(b) *Reconsideration.* (1) A suspended and/or excluded contractor may submit a request to the Ethics Counselor to reconsider the suspension and/or exclusion decision, reduce the period of exclusion or terminate the suspension and/or exclusion.

(2) Such requests shall be in writing and supported by documentation that the requested action is justified by:

(i) Reversal of the conviction or civil judgment upon which the suspension and/or exclusion was based;

(ii) Newly discovered material evidence;

(iii) Bona fide change in ownership or management;

(iv) Elimination of other causes for which the suspension and/or exclusion was imposed; or

(v) Other reasons the FDIC Ethics Counselor deems appropriate.

(3) A request for reconsideration based on the reversal of the conviction or civil judgment may be filed at any time.

(4) Requests for reconsideration based on other grounds may only be filed during the period commencing 60 days after the Ethics Counselor's decision imposing the suspension and/or exclusion. Only one such request may be filed in any twelve month period.

(5) The Ethics Counselor's decision on a request for reconsideration is subject to the review procedure set forth in paragraph (a) of this section.

PART 368—GOVERNMENT SECURITIES SALES PRACTICES

Sec.

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AUTHORITY: 15 U.S.C. 78o-5.

SOURCE: 62 FR 13287, Mar. 19, 1997, unless otherwise noted.

§ 368.1 Scope.

This part is applicable to state non-member banks and insured state branches of foreign banks that have filed notice as, or are required to file notice as, government securities brokers or dealers pursuant to section 15C of the Securities Exchange Act (15 U.S.C. 78o-5) and Department of the Treasury rules under section 15C (17 CFR 400.1(d) and part 401).

§ 368.2 Definitions.

(a) *Bank that is a government securities broker or dealer* means a state non-member bank or an insured state branch of a foreign bank that has filed notice, or is required to file notice, as a government securities broker or dealer pursuant to section 15C of the Securities Exchange Act (15 U.S.C. 78o-5) and Department of the Treasury rules under section 15C (17 CFR 400.1(d) and part 401).

(b) *Customer* does not include a broker or dealer or a government securities broker or dealer.

(c) *Government security* has the same meaning as this term has in section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)).

(d) *Non-institutional customer* means any customer other than:

(1) A bank, savings association, insurance company, or registered investment company;

(2) An investment adviser registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3); or

(3) Any entity (whether a natural person, corporation, partnership, trust, or otherwise) with total assets of at least \$50 million.