

grade shall be deemed to be the same as its value therein on the last preceding business day, unless in the meantime there shall have been bona fide bids and offers, or sales of hedged cotton, or other sales of cotton, or changes in prices of futures contracts made subject to the act, which in the usual course of business would clearly establish a rise or fall in the value of spot cotton in such market, in which case such rise or fall may be calculated and added to or deducted from the value on the preceding business day of cotton of all grades affected thereby.

[53 FR 29327, Aug. 4, 1988]

BILLING CODE 1505-01-D

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Parts 308 and 342

RIN 3064-AB81

#### Rules of Practice and Procedure; Applications for a Stay or Review of Actions of Bank Clearing Agencies

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** The Federal Deposit Insurance Corporation (FDIC) has conducted a review of its regulations pursuant to Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. As a result, the FDIC is deleting its rules and regulations which pertain to Applications for a Stay or Review of Actions of Bank Clearing Agencies, and replacing them with new, more concise provisions. At the same time, the FDIC is moving those shorter provisions to a new subpart, which contains the FDIC's Rules of Practice and Procedure. The changes are intended to streamline the FDIC's regulations and to remove duplicative provisions, while maintaining uniformity in approach among the other banking agencies and the Securities and Exchange Commission (SEC).

**EFFECTIVE DATE:** October 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** John F. Harvey, Trust Review Examiner, (202) 898-6762, or Andrea Winkler, Counsel, (202) 736-0762, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Securities Exchange Act of 1934 (Exchange Act) (15 U.S.C. 78 *et seq.*)

requires the registration of clearing agencies and implements a system of self-regulation by registered clearing agencies. Registered clearing agencies have the authority to impose certain disciplinary sanctions upon participants, to deny participation in the clearing agency, or to prohibit or limit a participant's access to services provided by clearing agencies. (15 U.S.C. 78q-1 (b)(3)(g), (b)(5)(C)). Persons aggrieved by such adverse actions by clearing agencies may request a stay of such action or may appeal the action to the appropriate regulatory agency. The FDIC is the appropriate regulatory agency with regard to FDIC-insured banks (other than members of the Federal Reserve System), when the appropriate regulatory agency for the clearing agency is not the SEC. The Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (FRB) have similar regulatory responsibilities with regard to banks under their jurisdiction.

The FDIC's current regulations are contained in Part 342 of its Rules and Regulations. (12 CFR Part 342) Those regulations are identical in substance to the regulations of the SEC. (17 CFR 240.19d-2 to 240.19d-3) Therefore, the FDIC is shortening its regulatory provisions by deleting those provisions contained in Part 342 which are the same as those contained in the regulations of the SEC. Instead, the FDIC is including a cross-reference to the SEC regulations in new Subpart S to Part 308 of its Rules and Regulations.

##### II. Section-by-Section Summary

Part 308—Rules of Practice and Procedure

Subpart S—Applications for a Stay or Review of Actions of Bank Clearing Agencies

##### *Section 308.400 Scope*

This section is identical to current section 342.1 of the FDIC's regulations and sets forth the authority for the regulations and the entities to which the regulations apply.

##### *Section 308.401 Applications for Stays of Disciplinary Sanctions or Summary Suspensions by a Bank Clearing Agency*

This section has been shortened to reflect that applications for a stay of a disciplinary action pursuant to section 17(b)(3)(G) of the Exchange Act, or summary suspension or limitation or prohibition of access to services under section 17(b)(5)(C) of the Exchange Act, may be filed with the Corporation according to the procedures set forth in

the regulations of the SEC (17 CFR 240.19d-2), which are identical in substance to those currently contained in § 342.2 of the FDIC's regulations. References to the Commission in the regulations of the SEC will be deemed to be references to the Corporation for purposes of this section.

##### *Section 308.402 Applications for Review of Final Disciplinary Sanctions, Denials of Participation, or Prohibitions or Limitations of Access to Services Imposed by Bank Clearing Agencies*

This section has been shortened to reflect that an application to the Corporation under section 19(d)(2) of the Exchange Act for review of any final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by bank clearing agencies shall be conducted according to the procedures set forth in the regulations of the SEC (17 CFR 240.19d-3), which are identical in substance to those currently contained in § 342.3 of the FDIC's regulations. References to the Commission in the regulations of the SEC will be deemed references to the Corporation for purposes of this section.

##### III. Regulatory Flexibility Act

Chapter 6 of Title 5 of the United States Code which pertains to "The Analysis of Regulatory Functions" does not apply to the final rule regarding Part 342. The revision to Part 342 is not a "rule" for purposes of that statute (see 5 U.S.C. 601(2)) as it is not a rule for which the FDIC is required to publish a general notice of proposed rulemaking under section 553(b) of Title 5 of the United States Code. This is because the final rule contains only technical changes and makes no substantive or procedural changes to existing rules, and therefore, the FDIC has determined for good cause that public notice and comment is unnecessary, and that the rule should be published in final form.

##### IV. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121, 104th Cong., 2d Sess. (1996)) provides generally for agencies to report rules to Congress and for Congress to review the rules. The reporting requirement is triggered in instances where the FDIC issues a final rule as defined by the Administrative Procedure Act at 5 U.S.C. 551. The FDIC will file the appropriate reports pursuant to the statute.

The Office of Management and Budget has determined that this final revision

to Part 342 does not constitute a "major" rule as defined by the statute.

#### V. Exemption From Public Notice and Comment

Because the FDIC finds that the new rules are the same in substance as those currently found in Part 342, and that the changes are purely technical in nature, the FDIC has determined for good cause that public notice and comment is unnecessary, and that the rule should be published in final form.

#### VI. Effective Date

The Administrative Procedure Act (5 U.S.C. 551 *et seq.*) provides that regulations shall become effective thirty days after their publication in the Federal Register. 5 U.S.C. 553. Thus, this amendment to Part 308 and Part 342 of the FDIC's regulations shall become effective on October 15, 1996.

#### List of Subjects

##### 12 CFR Part 308

Administrative practice and procedure, Banks, banking, Claims, Crime, Equal access to justice, Lawyers, Penalties, State nonmember banks.

##### 12 CFR Part 342

Administrative practice and procedure, Banks, banking.

For the reasons set out in the preamble, and under the authority of 12 U.S.C. 1819, chapter III of title 12 of the Code of Federal Regulations is amended as set forth below:

### PART 308—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 308 is revised to read as follows:

Authority: 5 U.S.C. 504, 554–557; 12 U.S.C. 93(b), 164, 505, 1817, 1818, 1820, 1831o, 1972, 3102, 3108(a), 3909, 4717; 15 U.S.C. 78 (h) and (i), 78o–4(c), 78o–5, 78q–1, 78s, 78u, 78u–2, 78u–3, and 78w; 31 U.S.C. 330, 5321; 42 U.S.C. 4012a.

2. A new Subpart S comprising §§ 308.400 through 308.402 is added to Part 308 to read as follows:

#### Subpart S—Applications for a Stay or Review of Actions of Bank Clearing Agencies

Sec.

308.400 Scope.

308.401 Applications for stays of disciplinary sanctions or summary suspensions by a bank clearing agency.

308.402 Applications for review of final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by bank clearing agencies.

#### Subpart S—Applications for a Stay or Review of Actions of Bank Clearing Agencies

##### § 308.400 Scope.

This subpart is issued by the Corporation pursuant to sections 17A(b)(3)(g), 17A(b)(5)(C), 19 and 23 of the Securities Exchange Act of 1934 (Exchange Act), as amended (15 U.S.C. 78q–1 (b)(3)(g), (b)(5)(C), 78s, 78w). It applies to applications by banks insured by the Corporation (other than members of the Federal Reserve System) for a stay or review of certain actions by clearing agencies registered under the Exchange Act, for which the Securities and Exchange Commission (Commission) is not the appropriate regulatory agency under section 3(a)(34)(B) of the Exchange Act (bank clearing agencies).

##### § 308.401 Applications for stays of disciplinary sanctions or summary suspensions by a bank clearing agency.

Applications to the Corporation for a stay of disciplinary action imposed by registered clearing agencies pursuant to section 17(b)(3)(G) of the Exchange Act, or summary suspension or limitation or prohibition of access under section 17(b)(5)(C) of the Exchange Act shall be made according to the rules adopted by the Commission (17 CFR 240.19d–2). References to the "Commission" in 17 CFR 240.19d–2 are deemed to refer to the "Corporation."

##### § 308.402 Applications for review of final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by bank clearing agencies.

Proceedings on an application to the Corporation under section 19(d)(2) of the Exchange Act for review of any final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by bank clearing agencies shall be conducted according to the procedures set forth in rules adopted by the Commission (17 CFR 240.19d–3). References to the "Commission" in 17 CFR 240.19d–3 are deemed to refer to the "Corporation."

### PART 342—[REMOVED AND RESERVED]

1. Part 342 is removed and reserved.

By order of the Board of Directors.

Dated at Washington, DC, this 13th day of August 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

*Executive Secretary.*

[FR Doc. 96–23228 Filed 9–12–96; 8:45 am]

BILLING CODE 6714–01–P

### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

##### 14 CFR Part 71

[Docket No. 28674; Amendment No. 71–28]

#### Airspace Designations; Incorporation by Reference

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the Federal Aviation Regulations relating to airspace designations to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9D, Airspace Designations and Reporting Points. This action also explains the procedures the FAA will use to amend the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points incorporated by reference.

**EFFECTIVE DATE:** These regulations are effective September 16, 1996, through September 15, 1997. The incorporation by reference of FAA Order 7400.9D is approved by the Director of the Federal Register as of September 16, 1996, through September 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** Brenda Brown or Janet Glivings, Airspace and Rules Division (ATA–400), Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

#### SUPPLEMENTARY INFORMATION:

##### History

FAA Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, listed Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points. Due to the length of these descriptions, the FAA requested approval from the Office of the Federal Register to incorporate the material by reference in the Federal Aviation Regulations (FAR) section 71.1 (14 CFR § 71.1). The Director of the Federal Register approved the incorporation by reference of FAA Order 7400.9C in section 71.1, effective September 16, 1995, through September 15, 1996. During the incorporation by reference period, the FAA processed all proposed changes of the airspace listings in FAA Order 7400.9C in full text as proposed rule documents in the Federal Register. Likewise, all amendments of these listings were