

■ d. Adding new paragraph (b)(2) and paragraph (c)(2).

The revisions and additions read as follows:

**§ 201.161 Extensions of time, postponements and adjournments.**

\* \* \* \* \*

(b) *Considerations in determining whether to extend time limits or grant postponements, adjournments and extensions.* (1) In considering all motions or requests pursuant to paragraph (a) or (b) of this section, the Commission or the hearing officer should adhere to a policy of strongly disfavoring such requests, except in circumstances where the requesting party makes a strong showing that the denial of the request or motion would substantially prejudice their case. In determining whether to grant any requests, the Commission or hearing officer shall consider, in addition to any other relevant factors:

(i) The length of the proceeding to date;

(ii) The number of postponements, adjournments or extensions already granted;

(iii) The stage of the proceedings at the time of the request;

(iv) The impact of the request on the hearing officer's ability to complete the proceeding in the time specified by the Commission; and

(v) Any other such matters as justice may require.

(2) To the extent that the Commission has chosen a timeline under which the hearing would occur beyond the statutory 60-day deadline, this policy of strongly disfavoring requests for postponement will not apply to a request by a respondent to postpone commencement of a cease and desist proceeding hearing beyond the statutory 60-day period.

(c)(1) \* \* \*

(2) *Stay pending Commission consideration of offers of settlement.* (i) If the Commission staff and one or more respondents in the proceeding file a joint motion notifying the hearing officer that they have agreed in principle to a settlement on all major terms, then the hearing officer shall stay the proceeding as to the settling respondent(s), or in the discretion of the hearing officer as to all respondents, pending completion of Commission consideration of the settlement offer.

Any such stay will be contingent upon:

(A) The settling respondent(s) submitting to the Commission staff, within fifteen business days of the stay, a signed offer of settlement in conformance with § 201.240; and

(B) Within twenty business days of receipt of the signed offer, the staff

submitting the settlement offer and accompanying recommendation to the Commission for consideration.

(ii) If the parties fail to meet either of these deadlines or if the Commission rejects the offer of settlement, the hearing officer must be promptly notified and, upon notification of the hearing officer, the stay shall lapse and the proceeding will continue. In the circumstance where:

(A) A hearing officer has granted a stay because the parties have "agreed in principle to a settlement;"

(B) The agreement in principle does not materialize into a signed settlement offer within 15 business days of the stay; and

(C) The stay lapses, the hearing officer will not be required to grant another stay related to the settlement process until both parties have notified the hearing officer in writing that a signed settlement offer has been prepared, received by the Commission's staff, and will be submitted to the Commission.

(iii) The granting of any stay pursuant to this paragraph (c) shall not affect any deadline set pursuant to § 201.360.

■ 3. Section 201.230 is amended by revising the phrase "14 days after the respondent files an answer" to "7 days after service of the order instituting proceedings" in the first sentence of paragraph (d).

■ 4. Section 201.360 is amended by:

■ a. Redesignating paragraph (a) as paragraph (a)(1); and

■ b. Adding paragraphs (a)(2) and (a)(3).

The additions read as follows:

**§ 201.360 Initial decision of hearing officer.**

(a)(1) \* \* \*

(2) *Time period for filing initial decision.* In the order instituting proceedings, the Commission will specify a time period in which the hearing officer's initial decision must be filed with the Secretary. In the Commission's discretion, after consideration of the nature, complexity, and urgency of the subject matter, and with due regard for the public interest and the protection of investors, this time period will be either 120, 210 or 300 days from the date of service of the order. Under the 300-day timeline, the hearing officer shall issue an order providing that there shall be approximately 4 months from the order instituting the proceeding to the hearing, approximately 2 months for the parties to obtain the transcript and submit briefs, and approximately 4 months after briefing for the hearing officer to issue an initial decision. Under the 210-day timeline, the hearing officer shall issue an order providing

that there shall be approximately 2½ months from the order instituting the proceeding to the hearing, approximately 2 months for the parties to review the transcript and submit briefs, and approximately 2½ months after briefing for the hearing officer to issue an initial decision. Under the 120-day timeline, the hearing officer shall issue an order providing that there shall be approximately 1 month from the order instituting the proceeding to the hearing, approximately 2 months for the parties to review the transcript and submit briefs, and approximately 1 month after briefing for the hearing officer to issue an initial decision. These deadlines confer no substantive rights on respondents.

(3) *Motion for extension.* In the event that the hearing officer presiding over the proceeding determines that it will not be possible to issue the initial decision within the specified period of time, the hearing officer should consult with the Chief Administrative Law Judge. Following such consultation, the Chief Administrative Law Judge may determine, in his or her discretion, to submit a motion to the Commission requesting an extension of the time period for filing the initial decision. This motion must be filed no later than 30 days prior to the expiration of the time specified in the order for issuance of an initial decision. The motion will be served upon all parties in the proceeding, who may file with the Commission statements in support of or in opposition to the motion. If the Commission determines that additional time is necessary or appropriate in the public interest, the Commission shall issue an order extending the time period for filing the initial decision.

\* \* \* \* \*

■ 5. Section 201.450 is amended by revising the phrase "within 40 days" to read "within 30 days" in the second sentence of paragraph (a).

■ 6. Section 201.900 is amended by:

■ a. Removing paragraph (a)(1)(i);

■ b. Redesignating paragraphs (a)(1)(ii) through (a)(1)(iv) as paragraphs (a)(1)(i) through (a)(1)(iii); and

■ c. Revising newly redesignated paragraph (a)(1)(iii).

The revision reads as follows:

**§ 210.900 Informal Procedures and Supplementary Information Concerning Adjudatory Proceedings.**

(a) \* \* \*

(1) \* \* \*

(iii) Ordinarily, a decision by the Commission with respect to an appeal from the initial decision of a hearing officer, a review of a determination by