

(B) Repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to perform audit services;

(iv) Has knowingly or recklessly given false or misleading information, or knowingly or recklessly participated in any way in the giving of false or misleading information, to the OCC or any officer or employee of the OCC;

(v) Has engaged in, or aided and abetted, a material and knowing or reckless violation of any provision of the Federal banking or securities laws or the rules and regulations thereunder, or any other law;

(vi) Has been removed, suspended, or debarred from practice before any Federal or state agency regulating the banking, insurance, or securities industries, other than by an action listed in § 19.244, on grounds relevant to the provision of audit services; or

(vii) Is suspended or debarred from cause from practice as an accountant by any duly constituted licensing authority of any state, possession, commonwealth, or the District of Columbia.

(2) *Accounting firms.* If the Comptroller determines that there is good cause for the removal, suspension, or debarment of a member or employee of an accounting firm under paragraph (a)(1) of this section, the Comptroller also may remove, suspend, or debar such firm or one or more offices of such firm. In considering whether to remove, suspend, or debar a firm or an office thereof, and the term of any sanction against a firm under this section, the Comptroller may consider, for example:

(i) The gravity, scope, or repetition of the act or failure to act that constitutes good cause for the removal, suspension, or debarment;

(ii) The adequacy of, and adherence to, applicable policies, practices, or procedures for the accounting firm's conduct of its business and the performance of audit services;

(iii) The selection, training, supervision, and conduct of members or employees of the accounting firm involved in the performance of audit services;

(iv) The extent to which managing partners or senior officers of the accounting firm have participated, directly, or indirectly through oversight or review, in the act or failure to act; and

(v) The extent to which the accounting firm has, since the occurrence of the act or failure to act, implemented corrective internal controls to prevent its recurrence.

(3) *Limited scope orders.* An order of removal, suspension (including an

immediate suspension), or debarment may, at the discretion of the Comptroller, be made applicable to a particular national bank or class of national banks.

(4) *Remedies not exclusive.* The remedies provided in this subpart are in addition to any other remedies the OCC may have under any other applicable provisions of law, rule, or regulation.

(b) *Proceedings to remove, suspend, or debar.*

(1) *Initiation of formal removal, suspension, or debarment proceedings.* The Comptroller may initiate a proceeding to remove, suspend, or debar an accountant or accounting firm from performing audit services by issuing a written notice of intention to take such action that names the individual or firm as a respondent and describes the nature of the conduct that constitutes good cause for such action.

(2) *Hearings under paragraph (b) of this section.* An accountant or firm named as a respondent in the notice issued under paragraph (b)(1) of this section may request a hearing on the allegations in the notice. Hearings conducted under this paragraph shall be conducted in the same manner as other hearings under the Uniform Rules of Practice and Procedure (12 CFR part 19, subpart A).

(c) *Immediate suspension from performing audit services.*

(1) *In general.* If the Comptroller serves a written notice of intention to remove, suspend, or debar an accountant or accounting firm from performing audit services, the Comptroller may, with due regard for the public interest and without a preliminary hearing, immediately suspend such accountant or firm from performing audit services for insured national banks, if the Comptroller:

(i) Has a reasonable basis to believe that the accountant or firm has engaged in conduct (specified in the notice served on the accountant or firm under paragraph (b) of this section) that would constitute grounds for removal, suspension, or debarment under paragraph (a) of this section;

(ii) Determines that immediate suspension is necessary to avoid immediate harm to an insured depository institution or its depositors or to the depository system as a whole; and

(iii) Serves such respondent with written notice of the immediate suspension.

(2) *Procedures.* An immediate suspension notice issued under this paragraph will become effective upon service. Such suspension will remain in effect until the date the Comptroller

dismisses the charges contained in the notice of intention, or the effective date of a final order of removal, suspension, or debarment issued by the Comptroller to the respondent.

(3) *Petition for stay.* Any accountant or firm immediately suspended from performing audit services in accordance with paragraph (c)(1) of this section may, within 10 calendar days after service of the notice of immediate suspension, file with the Office of the Comptroller of the Currency, Washington, DC 20219 for a stay of such immediate suspension. If no petition is 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