

an independent public 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) An independent public accountant or accounting firm named as a respondent in the notice issued under paragraph (f)(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 509).

(g) *Immediate suspension from performing audit services.* (1) If the Office serves written notice of intention to remove, suspend, or debar an independent public accountant or accounting firm from performing audit services, the Office may, with due regard for the public interest and without preliminary hearing, immediately suspend an independent public accountant or accounting firm from performing audit services for savings associations, if the Office:

(i) Has a reasonable basis to believe that the independent public accountant or accounting firm engaged in conduct (specified in the notice served upon the independent public accountant or accounting firm under paragraph (f) of this section) that would constitute grounds for removal, suspension, or debarment under paragraph (c) or (d) 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 independent public accountant or accounting firm with written notice of the immediate suspension.

(2) An immediate suspension notice issued under this paragraph will become effective upon service. Such suspension will remain in effect until the date the Office 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 Office to the independent public accountant or accounting firm.

(h) *Petition to stay.* (1) Any independent public accountant or accounting firm immediately suspended from performing audit services in accordance with paragraph (g) of this section may, within 10 calendar days after service of the notice of immediate suspension, file a petition with the

Office for a stay of such suspension. If no petition is filed within 10 calendar days, the immediate suspension shall remain in effect.

(2) Upon receipt of a stay petition, the Office will designate a presiding officer who shall fix a place and time (not more than 10 calendar days after receipt of such petition, unless extended at the request of the petitioner), at which the immediately suspended party may appear, personally or through counsel, to submit written materials and oral argument. Any OTS employee engaged in investigative or prosecuting functions for the OTS 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 OTS, 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 will be no discovery and the provisions of §§ 509.6 through 509.12, 509.16, and 509.21 of the Uniform Rules will apply.

(3) 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.

(4) 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 presiding officer must promptly certify the entire record to the Director. Within 60 calendar days of the presiding officer's certification, the Director shall issue an order notifying the affected party whether or not the immediate suspension should be continued or reinstated. The order shall state the basis of the Director's decision.

(i) *Scope of any order of removal, suspension, or debarment.* (1) Except as provided in paragraph (i)(2), any independent public accountant or accounting firm that has been removed, suspended (including an immediate suspension), or debarred from

performing audit services by the Office may not, while such order is in effect, perform audit services for any savings association.

(2) An order of removal, suspension (including an immediate suspension), or debarment may, at the discretion of the Office, be made applicable to a limited number of savings associations or savings and loan holding companies (limited scope order).

(j) *Automatic removal, suspension, and debarment.* (1) An independent public accountant or accounting firm may not perform audit services for a savings association if the independent public accountant or accounting firm:

(i) Is subject to a final order of removal, suspension, or debarment (other than a limited scope order) issued by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency under section 36 of the FDIA;

(ii) Is subject to a temporary suspension or permanent revocation of registration or a temporary or permanent suspension or bar from further association with any registered public accounting firm issued by the Public Company Accounting Oversight Board or the Securities and Exchange Commission under sections 105(c)(4)(A) or (B) of the Sarbanes-Oxley Act (15 U.S.C. 7215(c)(4)(A) or (B)); or

(iii) Is subject to an order of suspension or denial of the privilege of appearing or practicing before the Securities and Exchange Commission.

(2) Upon written request, the Office, for good cause shown, may grant written permission to an independent public accountant or accounting firm to perform audit services for savings associations. The request must contain a concise statement of action requested. The Office may require the applicant to submit additional information.

(k) *Notice of removal, suspension, or debarment.* (1) Upon issuance of a final order for removal, suspension, or debarment of an independent public accountant or accounting firm from providing audit services, the Office shall make the order publicly available and provide notice of the order to the other Federal banking agencies.

(2) An independent public accountant or accounting firm that provides audit services to a savings association must provide the Office with written notice of:

(i) Any currently effective order or other action described in paragraphs (c)(6) through (c)(7) or paragraphs (j)(1)(ii) through (j)(1)(iii) of this section; and