

4. In § 200.43, paragraph (c)(3), remove the words “Rule 26 of the Commission’s rules of practice, 17 CFR 201.26” and, in their place, add the words “Rules 430 and 431 of the Commission’s Rules of Practice, §§ 201.430 and 201.431 of this chapter”.

5. The authority citation for part 200, subpart F, is revised to read as follows:

Subpart F—Code of Behavior Governing Ex Parte Communications Between Persons Outside the Commission and Decisional Employees

Authority: 15 U.S.C. 77s, 77sss, 78w, 79t, 80a–37, 80b–11, and 7202; and 5 U.S.C. 557.

6. Section 200.111 is amended by:
a. Redesignating paragraph (c)(1)(iii) as paragraph (c)(1)(iv); and
b. Adding new paragraph (c)(1)(iii).
The addition reads as follows:

§ 200.111 Prohibitions; application; definitions.

* * * * *

(c) *Period during which prohibitions apply.* (1) * * *

(iii) That, in proceedings under Title I of the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7211–7219, these prohibitions shall commence at the time that a copy of an application for review has been filed with the Commission and served on the Public Company Accounting Oversight Board; and

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PART 201—RULES OF PRACTICE

Subpart D—Rules of Practice

7. The authority citation for part 201, subpart D, is revised to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77h–1, 77j, 77s, 77sss, 77ttt, 77u, 78c(b), 78d–1, 78d–2, 78l, 78m, 78n, 78o(d), 78o–3, 78s, 78u–2, 78u–3, 78v, 78w, 78w, 79c, 79s, 79t, 79z–5a, 80a–8, 80a–9, 80a–37, 80a–38, 80a–39, 80a–40, 80a–41, 80a–44, 80b–3, 80b–9, 80b–11, 80b–12, 7202, 7215, and 7217.

8. Section 201.100 is amended by adding paragraph (c) to read as follows:

§ 201.100 Scope of the rules of practice.

* * * * *

(c) The Commission, upon its determination that to do so would serve the interests of justice and not result in prejudice to the parties to the proceeding, may by order direct, in a particular proceeding, that an alternative procedure shall apply or that compliance with an otherwise applicable rule is unnecessary.

9. Section 201.101 is amended by:

- a. Revising paragraph (a)(9); and
- b. Adding paragraph (a)(12).

The revision and addition read as follows:

§ 201.101 Definitions.

(a) * * *

(9) *Proceeding* means any agency process initiated:

- (i) By an order instituting proceedings; or
- (ii) By the filing, pursuant to § 201.410, of a petition for review of an initial decision by a hearing officer; or
- (iii) By the filing, pursuant to § 201.420, of an application for review of a self-regulatory organization determination; or

(iv) By the filing, pursuant to § 201.430, of a notice of intention to file a petition for review of a determination made pursuant to delegated authority; or

(v) By the filing, pursuant to § 201.440, of an application for review of a determination by the Public Company Accounting Oversight Board; or

(vi) By the filing, pursuant to § 240.11Aa3–1(f) of this chapter, of an application for review of an action or failure to act in connection with the implementation or operation of any effective transaction reporting plan; or

(vii) By the filing, pursuant to § 240.11Aa3–2(e) of this chapter, of an application for review of an action taken or failure to act in connection with the implementation or operation of any effective national market system plan.

* * * * *

(12) *Board* means the Public Company Accounting Oversight Board.

* * * * *

10. Section 201.102 is amended by revising paragraph (d)(4) to read as follows:

§ 201.102 Appearance and practice before the Commission.

* * * * *

(d) *Designation of address for service; notice of appearance; power of attorney; withdrawal.* * * *

(4) *Withdrawal.* Any person seeking to withdraw his or her appearance in a representative capacity shall file a notice of withdrawal with the Commission or the hearing officer. The notice shall state the name, address, and telephone number of the withdrawing representative; the name, address, and telephone number of the person for whom the appearance was made; and the effective date of the withdrawal. If the person seeking to withdraw knows the name, address, and telephone number of the new representative, or knows that the person for whom the appearance was made intends to represent him- or herself, that

information shall be included in the notice. The notice must be served on the parties in accordance with § 201.150. The notice shall be filed at least five days before the proposed effective date of the withdrawal.

* * * * *

11. Section 201.111 is amended by revising paragraph (h) to read as follows:

§ 201.111 Hearing officer: Authority.

* * * * *

(h) Subject to any limitations set forth elsewhere in these Rules of Practice, considering and ruling upon all procedural and other motions, including a motion to correct a manifest error of fact in the initial decision, provided that such a motion to correct is filed within ten days of the initial decision;

* * * * *

12. Section 201.141 is amended by:
a. Revising the section heading; and
b. Revising paragraphs (a)(3) and (b)

to read as follows:

The revisions read as follows:

§ 201.141 Orders and decisions: Service of orders instituting proceedings and other orders and decisions.

(a) *Service of an order instituting proceedings.*

* * * * *

(3) *Record of service.* The Secretary shall maintain a record of service on parties, identifying the party given notice, the method of service, the date of service, the address to which service was made, and the person who made service. If service is made in person, the certificate of service shall state, if available, the name of the individual to whom the order was given. If service is made by U.S. Postal Service certified or Express Mail, the Secretary shall maintain the confirmation of receipt or of attempted delivery. If service is made to an agent authorized by appointment to receive service, the certificate of service shall be accompanied by evidence of the appointment.

* * * * *

(b) *Service of orders or decisions other than an order instituting proceedings.*

Written orders or decisions issued by the Commission or by a hearing officer shall be served promptly on each party pursuant to any method of service authorized under paragraph (a) of this section or § 201.150(c)(1)–(3). Such orders or decisions may also be served by facsimile transmission if the party to be served has agreed to accept such service in a writing, signed by the party, and has provided the Commission with information concerning the facsimile machine telephone number and hours of