

unsound practices or breaches of fiduciary duty, pursuant to 12 U.S.C. 1468;

(6) Certain provisions of the Exchange Act, pursuant to section 21B of the Exchange Act (15 U.S.C. 78u-2);

(7) Section 1120 of Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3349), or any order or regulation issued thereunder;

(8) The terms of any final or temporary order issued or enforceable pursuant to section 8 of the FDIA or of any written agreement executed by the Office, the terms of any conditions imposed in writing by the Office in connection with the grant of an application or request, certain unsafe or unsound practices or breaches of fiduciary duty, or any law or regulation not otherwise provided herein pursuant to 12 U.S.C. 1818(i)(2);

(9) Any provision of law referenced in section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)) or any order or regulation issued thereunder; and

(10) Any provision of law referenced in 31 U.S.C. 5321 or any order or regulation issued thereunder;

(f) Remedial action under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(g)); and

(g) This subpart also applies to all other adjudications required by statute to be determined on the record after opportunity for an agency hearing, unless otherwise specifically provided for in the Local Rules.

[56 FR 38306, Aug. 12, 1991, as amended at 56 FR 59866, Nov. 26, 1991; 61 FR 20353, May 6, 1996]

§ 509.2 Rules of construction.

For purposes of this subpart:

(a) Any term in the singular includes the plural, and the plural includes the singular, if such use would be appropriate;

(b) Any use of a masculine, feminine, or neuter gender encompasses all three, if such use would be appropriate;

(c) The term *counsel* includes a non-attorney representative; and

(d) Unless the context requires otherwise, a party's counsel of record, if any, may, on behalf of that party, take any action required to be taken by the party.

§ 509.3 Definitions.

For purposes of this subpart, unless explicitly stated to the contrary:

(a) *Administrative law judge* means one who presides at an administrative hearing under authority set forth at 5 U.S.C. 556.

(b) *Adjudicatory proceeding* means a proceeding conducted pursuant to these rules and leading to the formulation of a final order other than a regulation.

(c) *Decisional employee* means any member of the Office's or administrative law judge's staff who has not engaged in an investigative or prosecutorial role in a proceeding and who may assist the Office or the administrative law judge, respectively, in preparing orders, recommended decisions, decisions, and other documents under the Uniform Rules.

(d) *Director* means the Director of the Office of Thrift Supervision or his or her designee.

(e) *Enforcement Counsel* means any individual who files a notice of appearance as counsel on behalf of the Office in an adjudicatory proceeding.

(f) *Final order* means an order issued by the Office with or without the consent of the affected institution or the institution-affiliated party, that has become final, without regard to the pendency of any petition for reconsideration or review.

(g) *Institution* includes any savings association as that term is defined in section 3(b) of the FDIA (12 U.S.C. 1813(b)), any savings and loan holding company or any subsidiary thereof whether wholly or partly owned (other than a bank) as those terms are defined in section 10(a) of the HOLA (12 U.S.C. 1467(a)).

(h) *Institution-affiliated party* means any institution-affiliated party as that term is defined in section 3(u) of the FDIA (12 U.S.C. 1813(u)).

(i) *Local Rules* means those rules found in subpart B of this part.

(j) *Office* means the Office of Thrift Supervision in the case of any savings association or any savings and loan holding company, and subsidiary (other than a bank or subsidiary of that bank) of a savings and loan holding company, any service corporation of a savings association, and any subsidiary of such