

adjudicatory proceedings shall be made to the Commission. The Chief Administrative Law Judge shall report on proceedings assigned to an administrative law judge. The General Counsel shall report on proceedings assigned to the Office of the General Counsel, as well as any other pending proceedings. These status reports shall be made through the Secretary, with a minimum frequency established by the Commission. In connection with these reports, the Chief Administrative Law Judge and the General Counsel shall specifically apprise the Commission of any proceeding that exceeds the guidelines established for the timely completion of proceedings by more than 30 days. The report shall describe the procedural posture of any such proceeding, estimate a date for conclusion of the proceeding, and provide such other information as is necessary to enable the Commission to determine whether additional steps are necessary to reach a fair and timely resolution of the matter.

In some cases, additional resources may be necessary to free an administrative law judge or staff to address a matter of unusually large size or exceptional complexity.<sup>27</sup> In some instances, consultation with the Commission by the General Counsel may speed the completion of a particular case. In others, the length of the hearing, the number of respondents, the complexity of a case or the urgency of other matters may justify delay in reaching a decision at a delegated level, in which case no action in response to the status report would be needed. Coupled with the guidelines for the timely completion of proceedings, however, the use of a comprehensive and formalized case status reporting system will provide greater assurance that the resolution of a proceeding that has been delayed will be treated as a priority matter.

As noted by the Schapiro Task Force, an increasing number of status reports concerning cases that are not completed within the guidelines may provide an "early warning signal" that additional resources are necessary. Had a more detailed and more formal case status reporting requirement been in effect in the mid-1980's, the Commission might have been in a better position to address the developing case backlog before it

gained the magnitude it had reached by 1990 when the Task Force was created.

The Commission believes that the case status reporting requirements announced today will fulfill the purpose of the Schapiro Task Force recommendation discussed above by establishing a mechanism that will automatically address cases that are not timely resolved and by increasing accountability by and to the Commission for management of the docket.

The Task Force recommended that the requirement to formally apprise the Commission if a proceeding is not completed within specified periods should be implemented through changes in the Commission's formal delegations to the administrative law judges, the Secretary, and the General Counsel. See 17 CFR 200.30-1 *et. seq.* The Commission believes that publication of these case status reporting procedures in the Statement of Informal Procedures will be equally effective in implementing this recommendation.

#### *C. Increased Public Disclosure Concerning the Pending Case Docket*

The Task Force recommended publishing more information concerning the status of the Commission's adjudicatory docket.<sup>28</sup> Ongoing disclosure of information about the adjudication program caseload increases awareness of the importance of the program, facilitates oversight of the program, and promotes public confidence in the efficiency and fairness of the program. Under the procedures adopted today, the Secretary will publish each October and April in the *SEC Docket* summary statistical information about the status of the pending adjudicatory docket and changes in the Commission's caseload over the prior six months.<sup>29</sup>

<sup>28</sup> See Recommendation 4, *Task Force Report*, *supra* note , at 43-44.

<sup>29</sup> The report shall include the number of cases pending before the administrative law judges and the Commission at the beginning and end of the six-month period. The report shall also show increases in the caseload arising from new cases being instituted, appealed or remanded to the Commission, and decreases in the caseload arising from the disposition of proceedings by issuance of initial decisions, issuance of final decisions issued on appeal of initial decisions, other dispositions of appeals of initial decisions, final decisions on review of self-regulatory organization determinations, other dispositions on review of self-regulatory organization determinations, and decisions with respect to stays or interlocutory motions. For each category of decision, the report shall also show the median age of the cases at the time of the decision and the number of cases decided within the guidelines for the timely completion of adjudicatory proceedings.

The Commission will also continue to follow the Task Force recommendation that it adopt the practice of several federal courts of appeals by publishing with each opinion the date the appeal or review was commenced and the date of oral argument, if any.

The Task Force suggested publication of information about the Commission's caseload in the Annual Report. Although a useful adjunct to publication in the *SEC Docket*, publication in the Annual Report alone is not sufficient. The *Docket* is more widely available (both on commercial database services and in other places such as libraries) than the Annual Report. In addition, publication in the *Docket* allows more frequent and more timely disclosure.

### **IV. Rules of Practice: Table of Contents**

#### **General Rules**

- Rule 100. Scope of the Rules of Practice.
- Rule 101. Definitions.
- Rule 102. Appearance and Practice Before the Commission.
- Rule 103. Construction of Rules.
- Rule 104. Business Hours.
- Rule 110. Presiding Officer.
- Rule 111. Hearing Officer: Authority.
- Rule 112. Hearing Officer: Disqualification and Withdrawal.
- Rule 120. *Ex Parte* Communications.
- Rule 121. Separation of Functions.
- Rule 140. Commission Orders and Decisions: Signature and Availability.
- Rule 141. Orders and Decisions: Service of Orders Instituting Proceeding and Other Orders and Decisions.
- Rule 150. Service of Papers by Parties.
- Rule 151. Filing of Papers With the Commission: Procedure.
- Rule 152. Filing of Papers: Form.
- Rule 153. Filing of Papers: Signature Requirement and Effect.
- Rule 154. Motions.
- Rule 155. Default; Motion to Set Aside Default.
- Rule 160. Time Computation.
- Rule 161. Extensions of Time, Postponements and Adjournments.
- Rule 180. Sanctions.
- Rule 190. Confidential Treatment of Information in Certain Filings.
- Rule 191. Adjudications Not Required to Be Determined on the Record After Notice and Opportunity for Hearing.
- Rule 192. Rulemaking: Issuance, Amendment and Repeal of Rules of General Application.
- Rule 193. Applications by Barred Individuals for Consent to Associate.

#### **Initiation of Proceedings and Prehearing Rules**

- Rule 200. Initiation of Proceedings.
- Rule 201. Consolidation of Proceedings.
- Rule 202. Specification of Procedures by Parties in Certain Proceedings.
- Rule 210. Parties, Limited Participants and Amici Curiae.
- Rule 220. Answer to Allegations.
- Rule 221. Prehearing Conferences.
- Rule 222. Prehearing Submissions.

<sup>27</sup> For example, additional administrative law judges might be necessary on a temporary basis, *see, e.g.*, 5 U.S.C. 3344, to allow the judge assigned responsibility for a proceeding to complete that proceeding without the burden of new cases, or additional law clerks, paralegals or other staff might be needed on temporary assignment.