

## Farm Credit Administration

## § 622.55

subpart, including the notice of hearing, transcript, exhibits, proposed findings and conclusions, recommended decision of the presiding officer, exceptions thereto, decision and order of the Board, and any other papers which are filed in connection with the proceeding shall not be made public, and shall be for the confidential use only of the FCA and its staff, the presiding officer, the parties, and other appropriate supervisory authorities.

### § 622.21 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this subpart, the date of the act or event from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday or Federal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or Federal holiday. When the period of time prescribed or allowed is 10 days or less, intermediate Saturdays, Sundays, and Federal holidays shall not be included in the computation.

(b) *Service by mail.* Whenever any party has the right or is required to do some act within the period of time prescribed in this subpart after the service upon the party of any document or other paper of any kind, and such service is made by mail, three days shall be added to the prescribed period from the date when the matter served is deposited in the United States mail.

### § 622.22 Retained authority.

Nothing in this part is in derogation of powers of examination and investigation conferred on the FCA by any provision of law.

### §§ 622.23–622.50 [Reserved]

## Subpart B—Rules and Procedures for Assessment and Collection of Civil Money Penalties

SOURCE: 53 FR 27284, July 19, 1988, unless otherwise noted.

### § 622.51 Definitions.

Unless noted otherwise, the definitions set forth in §622.2 of subpart A shall apply to this subpart.

### § 622.52 Purpose and scope.

The rules and procedures specified in this subpart and in subpart A are applicable to proceedings by the FCA to assess and collect civil money penalties:

(a) For violations of the terms of a final cease and desist order issued under section 5.25 or 5.26 of the Act;

(b) For violations of any provision of the Act or any regulation issued under the Act; or

(c) For violations of the National Flood Insurance Reform Act (Reform Act) as set forth in 42 U.S.C. 4012a(f) or any regulation issued under the Reform Act.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12584, Mar. 15, 2005]

### §§ 622.53–622.54 [Reserved]

### § 622.55 Notice of assessment of civil money penalty.

(a) *Notice of assessment.* The notice of assessment for a civil money penalty will state:

(1) The legal authority for the assessment;

(2) The amount of the civil money penalty being assessed;

(3) The date by which the civil money penalty must be paid;

(4) The matter of fact or law constituting the grounds for assessment of the civil money penalty;

(5) The right of the institution or person being assessed to a formal hearing to challenge the assessment;

(6) That failure to request a hearing constitutes a waiver of the opportunity for a hearing and the notice of assessment will constitute a final and unappealable order; and

(7) The time limit to request such a formal hearing.

(b) *Service.* The notice of assessment may be served upon the institution or person being assessed by personal service or by certified mail with a return

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receipt to the institution's or the person's last known address. Such service constitutes issuance of the notice.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

### § 622.56 Request for formal hearing on assessment.

An institution or person being assessed may request a formal hearing to challenge the assessment of a civil money penalty. The request must be filed in writing, within 10 days of the issuance of the notice of assessment, with the Chairman of the Board, FCA, 1501 Farm Credit Drive, McLean, VA 22102-5090.

### § 622.57 Waiver of hearing; consent.

(a) *Waiver.* Failure to request a hearing pursuant to § 622.56 constitutes a waiver of the opportunity for a hearing and the notice of assessment issued pursuant to § 622.55 will constitute a final and unappealable order.

(b) *Consent.* Any party afforded a hearing who does not appear at the hearing personally or by a duly authorized representative is deemed to have consented to the issuance of an assessment order.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

### § 622.58 Hearing on assessment.

(a) *Time and place.* An institution or person requesting a hearing will be informed by order of the Board of the time and place set for hearing.

(b) *Answer; procedures.* The hearing order may require the institution or person requesting the hearing to file an answer as prescribed in § 622.5 of subpart A. The procedures of the Administrative Procedure Act (5 U.S.C. 554-557) and subpart A of these rules will apply to the hearing.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

### § 622.59 Assessment order.

(a) *Consent.* In the event of consent of the parties concerned to an assessment, or if, upon the record made at a hearing ordered under this subpart, the Board finds that the grounds for having assessed the penalty have been established, the Board may issue an order of

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assessment of civil money penalty. In its assessment order, the Board may reduce the amount of the penalty specified in the notice of assessment.

(b) *Effective date and period.* An assessment order is effective immediately upon issuance, or upon such other date as may be specified therein, and will remain effective and enforceable unless it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.

(c) *Service.* An assessment order may be served by personal service or by certified mail with a return receipt to the last known address of the institution or person being assessed. Such service constitutes issuance of the order.

[51 FR 21139, June 11, 1986, as amended at 70 FR 12585, Mar. 15, 2005]

### § 622.60 Payment of civil money penalty.

(a) *Payment date.* Generally, the date designated in the notice of assessment for payment of the civil money penalty will be 60 days from the issuance of the notice. If, however, the Board finds, in a specific case, that the purposes of the relevant statutes would be better served if the 60-day period were changed, the Board may shorten or lengthen the period or make the civil money penalty payable immediately upon receipt of the notice of assessment. If a timely request for a formal hearing to challenge an assessment of a civil money penalty is filed, payment of the penalty will not be required unless and until the Board issues a final order of assessment following the hearing. If an assessment order is issued, it will specify the date by which the civil money penalty is to be paid or collected.

(b) *Method of payment.* Checks in payment of civil money penalties must be made payable to the "Farm Credit Administration." Upon collection, the FCA will forward payment for penalties described in § 622.52(a) and (b) to the United States Department of Treasury. The FCA will forward payment for penalties described in § 622.52(c) to the National Flood Mitigation Fund as required by 42 U.S.C. 4012a(f)(8).

[70 FR 12585, Mar. 15, 2005]