

1464 1817(a), 1818, 1820, 1821, 1831m, 1831p-1, 1831o, 1833e, 1867, 1951 *et seq.*, 2601 *et seq.*, 2801 *et seq.*, 2901 *et seq.*, 3101 *et seq.*, 3401 *et seq.*, 5321, 5412, 5414; 15 U.S.C. 77uu(b), 78q(c)(3); 18 U.S.C. 641, 1905, 1906; 29 U.S.C. 1204; 31 U.S.C. 5318(g)(2), 9701; 42 U.S.C. 3601; 44 U.S.C. 3506, 3510; E.O. 12600 (3 CFR, 1987 Comp., p. 235).

■ 2. Section 4.6 is amended by revising paragraph (b)(1) to read as follows:

**§ 4.6 Frequency of examination of national banks and Federal savings associations.**

\* \* \* \* \*

(b) \* \* \*

(1) The bank or Federal savings association has total assets of less than \$3 billion;

\* \* \* \* \*

■ 3. Section 4.7 is amended by revising paragraph (b)(1)(i) to read as follows:

**§ 4.7 Frequency of examination of Federal agencies and branches.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) Has total assets of less than \$3 billion;

\* \* \* \* \*

**Federal Reserve System  
12 CFR Chapter II**

For the reasons set forth in the joint preamble, the Board amends parts 208 and 211 of chapter II of title 12 of the Code of Federal Regulations as follows:

**PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)**

■ 4. The authority citation for part 208 continues to read as follows:

**Authority:** 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321-338a, 371d, 461, 481-486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1833(j), 1828(o), 1831, 1831o, 1831p-1, 1831r-1, 1831w, 1831x, 1835a, 1882, 2901-2907, 3105, 3310, 3331-3351, 3353, and 3906-3909; 15 U.S.C. 78b, 781(b), 781(i), 780-4(c)(5), 78q, 78q-1, 78w, 1681s, 1681w, 6801 and 6805, 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104b, 4106, and 4128.

■ 5. Amend § 208.64 by revising paragraph (b)(1) to read as follows:

**§ 208.64 Frequency of examination.**

\* \* \* \* \*

(b) \* \* \*

(1) The bank has total assets of less than \$3 billion;

\* \* \* \* \*

**PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)**

■ 6. The authority citation for part 211 continues to read as follows:

**Authority:** 12 U.S.C. 221 *et seq.*, 1818, 1835a, 1841 *et seq.*, 3101 *et seq.*, 3901 *et seq.*, and 5101 *et seq.*; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

■ 7. Amend § 211.26 by revising paragraph (c)(2)(i)(A) to read as follows:

**§ 211.26 Examinations of offices and affiliates of foreign banks.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) \* \* \*

(A) Has total assets of less than \$3 billion;

\* \* \* \* \*

**Federal Deposit Insurance Corporation  
12 CFR Chapter III**

For the reasons set forth in the joint preamble, the Board of Directors of the FDIC amends parts 337 and 347 of chapter III of title 12 of the Code of Federal Regulations as follows:

**PART 337—UNSAFE AND UNSOUND BANK PRACTICES**

■ 8. The authority citation for part 337 continues to read as follows:

**Authority:** 12 U.S.C. 375a(4), 375b, 1463(a)(1), 1816, 1818(a), 1818(b), 1819, 1820(d), 1828(j)(2), 1831, 1831f, 5412.

■ 9. Amend § 337.12 by revising paragraph (b)(1) to read as follows:

**§ 337.12 Frequency of examination.**

\* \* \* \* \*

(b) \* \* \*

(1) The institution has total assets of less than \$3 billion;

\* \* \* \* \*

**PART 347—INTERNATIONAL BANKING**

■ 10. The authority citation for part 347 continues to read as follows:

**Authority:** 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 1828, 3103, 3104, 3105, 3108, 3109; Pub. L. 111-203, section 939A, 124 Stat. 1376, 1887 (July 21, 2010) (codified 15 U.S.C. 780-7 note).

■ 11. Amend § 347.211 by revising paragraph (b)(1)(i) to read as follows:

**§ 347.211 Examination of branches of foreign banks.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) Has total assets of less than \$3 billion;

\* \* \* \* \*

Dated: August 20, 2018.

**Joseph M. Otting,**  
*Comptroller of the Currency.*

Board of Governors of the Federal Reserve System, August 22, 2018.

**Ann E. Misback,**  
*Secretary to the Board.*

Dated at Washington, DC, on August 22, 2018.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**  
*Executive Secretary.*

[FR Doc. 2018-18685 Filed 8-28-18; 8:45 am]

**BILLING CODE 4810-33-P**

**FEDERAL HOUSING FINANCE AGENCY**

**12 CFR Parts 1209, 1217, and 1250**

**RIN 2590-AA93**

**Rules of Practice and Procedure; Civil Money Penalty Inflation Adjustment**

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Final rule.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is issuing this final rule amending its Rules of Practice and Procedure and other agency regulations to adjust each civil money penalty within its jurisdiction to account for inflation, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

**DATES:** *Effective date:* September 28, 2018.

**FOR FURTHER INFORMATION CONTACT:** Stephen E. Hart, Deputy General Counsel, at (202) 649-3053, *Stephen.Hart@fhfa.gov*, or Frank R. Wright, Assistant General Counsel, at (202) 649-3087, *Frank.Wright@fhfa.gov* (not toll-free numbers); Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is: (800) 877-8339 (TDD only).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

FHFA is an independent agency of the Federal government, and the financial safety and soundness regulator of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie

Mac) (collectively, the Enterprises), as well as the Federal Home Loan Banks (collectively, the Banks) and the Office of Finance under authority granted by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act).<sup>1</sup> FHFA oversees the Enterprises and Banks (collectively, the regulated entities) and the Office of Finance to ensure that they operate in a safe and sound manner and maintain liquidity in the housing finance market in accordance with applicable laws, rules and regulations. To that end, FHFA is vested with broad supervisory discretion and specific civil administrative enforcement powers, similar to such authority granted by Congress to the Federal bank regulatory agencies.<sup>2</sup> Section 1376 of the Safety and Soundness Act (12 U.S.C. 4636) empowers FHFA to impose civil money penalties under specific conditions. FHFA's Rules of Practice and Procedure regulation (12 CFR part 1209) govern cease and desist proceedings, civil money penalty assessment proceedings, and other administrative adjudications.<sup>3</sup> FHFA's Flood Insurance regulation (12 CFR part 1250) governs flood insurance responsibilities as they pertain to the Enterprises.<sup>4</sup> FHFA's Implementation of the Program Fraud Civil Remedies Act of 1986 regulation (12 CFR part 1217) sets forth procedures for imposing civil penalties and assessments under the Program Fraud Civil Remedies Act (31 U.S.C. 3801 *et seq.*) on any person that makes a false claim for property, services or money from FHFA, or makes a false material statement to FHFA in connection with a claim, where the amount involved does not exceed \$150,000.<sup>5</sup>

**II. The Adjustment Improvements Act**

The Federal Civil Penalties Inflation Adjustment Act of 1990 ("Inflation Adjustment Act"), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 ("Adjustment Improvements Act"), requires FHFA, as well as other Federal agencies with the authority to issue civil money penalties (CMPs), to adjust by regulation the maximum amount of each CMP authorized by law that the agency has jurisdiction to administer.<sup>6</sup> The Adjustment Improvements Act required agencies to make an initial "catch-up" adjustment of their CMPs upon the statute's enactment, and further requires agencies to make additional adjustments on an annual basis following the initial adjustment.<sup>7</sup>

Annual inflation adjustments under the Adjustment Improvements Act are based on the percent change between the October Consumer Price Index for All Urban Consumers (the CPI-U) preceding the date of the adjustment and the October CPI-U for the year before that.

**III. Description of the Rule**

This final rule adjusts the maximum penalty amount within each of the three tiers specified in 12 U.S.C. 4636 by amending the table contained in 12 CFR 1209.80 to reflect the new adjusted maximum penalty amount that FHFA may impose upon a regulated entity or any entity-affiliated party within each tier. The increases in maximum penalty amounts contained in this final rule may not necessarily affect the amount of any CMP that FHFA may seek for a particular violation, which may not be the maximum that the law allows; FHFA would calculate each CMP on a

case-by-case basis in light of a variety of factors.<sup>8</sup> This rule also adjusts the maximum penalty amounts for violations under the FHFA Flood Insurance regulation by amending the text of 12 CFR 1250.3 to reflect the new adjusted maximum penalty amount that FHFA may impose for violations under that regulation. This rule also adjusts the maximum amounts for civil money penalties under the Program Fraud Civil Remedies Act by amending the text of 12 CFR 1217.3 to reflect the new adjusted maximum penalty amount that FHFA may impose for violations under that regulation.

The Adjustment Improvements Act directs federal agencies to calculate each annual CMP adjustment as the percent change between the CPI-U for the previous October and the CPI-U for October of the calendar year before.<sup>9</sup> The maximum CMP amounts for FHFA penalties under 12 U.S.C. 4636 were last adjusted in 2016.<sup>10</sup> Since FHFA is making this round of adjustments in calendar year 2018, and the maximum CMP amounts were last set in calendar year 2016, the inflation adjustment amount for each maximum CMP amount was calculated by comparing the CPI-U for October 2015 with the CPI-U for October 2016, resulting in an inflation factor of 1.01636, and then comparing the CPI-U for October 2016 with the CPI-U for October 2017, resulting in an inflation factor of 1.02041. For each maximum CMP calculation, the product of this inflation adjustment and the previous maximum penalty amount was then rounded to the nearest whole dollar as required by the Adjustment Improvements Act, to determine the new adjusted maximum penalty amount.<sup>11</sup> The table below sets out these items accordingly.

| U.S. Code citation         | Description  | Previous maximum penalty amount | Rounded inflation increase | New adjusted maximum penalty amount |
|----------------------------|--|---------------------------------|----------------------------|-------------------------------------|
| 12 U.S.C. 4636(b)(1) ..... | First Tier .....   | \$10,982                        | \$408                      | \$11,390                            |
| 12 U.S.C. 4636(b)(2) ..... | Second Tier .....  | 54,910                          | 2,037                      | 56,947                              |
| 12 U.S.C. 4636(b)(4) ..... | Third Tier (Entity-affiliated party and Regulated entity). | 2,196,380                       | 81,495                     | 2,277,875                           |

Similarly, the CMP for FHFA penalties under the Program Fraud Civil Remedies Act were last adjusted in 2016.<sup>12</sup> Since FHFA is making this

round of adjustments in calendar year 2018, and the maximum CMP amounts were last set in calendar year 2016, the inflation adjustment amount for each

maximum CMP amount was calculated as above by comparing the CPI-U for October 2015 with the CPI-U for October 2016, resulting in an inflation

<sup>1</sup> See Safety and Soundness Act, 12 U.S.C. 4513 and 4631–4641.

<sup>2</sup> *Id.*

<sup>3</sup> See 12 CFR part 1209.

<sup>4</sup> See 12 CFR part 1250.

<sup>5</sup> See generally, 31 U.S.C. 3801 *et seq.*

<sup>6</sup> See 28 U.S.C. 2461 note.

<sup>7</sup> FHFA promulgated its catch-up adjustment of its CMPs with an interim final rule published July 1, 2016. 81 FR 43028.

<sup>8</sup> See, e.g., 12 CFR 1209.7(c); FHFA Enforcement Policy, AB 2013–03 (May 31, 2013).

<sup>9</sup> This final rule will incorporate the annual inflation adjustments for 2017 and 2018 by performing the calculation for 2017, and applying the 2018 adjustment to that amount.

<sup>10</sup> See 81 FR 43028, 43030 (July 1, 2016).

<sup>11</sup> 28 U.S.C. 2461 note.

<sup>12</sup> See 81 FR 43031, 43035 (July 1, 2016).

factor of 1.01636, and then comparing the CPI-U for October 2016 with the CPI-U for October 2017, resulting in an

inflation factor of 1.02041. The table below sets out these items accordingly.

| U.S. Code citation         | Description                               | Previous maximum penalty amount | Rounded inflation increase | New adjusted maximum penalty amount |
|----------------------------|---|---------------------------------|----------------------------|-------------------------------------|
| 31 U.S.C. 3802(a)(1) ..... | Maximum penalty per false claim .....     | \$10,781                        | \$400                      | \$11,181                            |
| 31 U.S.C. 3802(a)(2) ..... | Maximum penalty per false statement ..... | 10,781                          | 400                        | 11,181                              |

Similarly, the CMP for FHFA penalties under the Flood Insurance regulation were last adjusted in 2016.<sup>13</sup> Since FHFA is making this round of adjustments in calendar year 2018, and the maximum CMP amounts were last

set in calendar year 2016, the inflation adjustment amount for each maximum CMP amount was calculated as above by comparing the CPI-U for October 2015 with the CPI-U for October 2016, resulting in an inflation factor of

1.01636, and then comparing the CPI-U for October 2016 with the CPI-U for October 2017, resulting in an inflation factor of 1.02041. The table below sets out these items accordingly.

| U.S. Code citation          | Description  | Previous maximum penalty amount | Rounded inflation increase | New adjusted maximum penalty amount |
|-----------------------------|--|---------------------------------|----------------------------|-------------------------------------|
| 42 U.S.C. 4012a(f)(5) ..... | Maximum penalty per violation .....  | \$534                           | \$20                       | \$554                               |
| 42 U.S.C. 4012a(f)(5) ..... | Maximum total penalties assessed against an Enterprise in a calendar year. | 154,028                         | 5,715                      | 159,743                             |

**IV. Differences Between the Federal Home Loan Banks and the Enterprises**

When promulgating any regulation that may have future effect relating to the Banks, the Director is required by section 1313(f) of the Safety and Soundness Act to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability (12 U.S.C. 4513(f)).<sup>14</sup> The Director considered the differences between the Banks and the Enterprises, as they relate to the above factors, and determined that this final rule is appropriate, as the maximum civil money penalty amounts are set by statute, as is the manner in which FHFA is required to adjust those amounts, so there is no possibility to vary those provisions in this rule based on consideration of the factors recited in section 1313(f). The inflation adjustments effected by the final rule are mandated by law. Any imposition of civil money penalties would only take place after an enforcement action in which FHFA would have an opportunity to consider all relevant factors. The special features of the Banks identified in section 1313(f) of the Safety and Soundness Act can be accommodated, if appropriate, along

with any other relevant factors, when determining any actual penalties.

**V. Regulatory Impact**

*Administrative Procedure Act*

FHFA finds good cause that notice and an opportunity to comment on this final rule are unnecessary under section 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B). The Adjustment Improvements Act states that the annual civil money penalty adjustments shall be made notwithstanding the rulemaking provisions of 5 U.S.C. 553. Furthermore, this rulemaking conforms with and is consistent with the statutory directive set forth in the Adjustment Improvements Act. As a result, there are no issues of policy discretion about which to seek public comment. Accordingly, FHFA is issuing these amendments as a final rule.

*Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (RFA),<sup>15</sup> an agency must prepare a regulatory flexibility analysis for all proposed and final rules that describes the impact of the rule on small entities, unless the head of an agency certifies that the rule will not have "a significant economic impact on a substantial number of small entities." However, the RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to the

APA.<sup>16</sup> As discussed above, FHFA has determined for good cause that the APA does not require a general notice of proposed rulemaking for this rule. Thus, the RFA does not apply to this final rule.

*Paperwork Reduction Act*

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) requires that regulations involving the collection of information receive clearance from the Office of Management and Budget (OMB). This rule contains no such collection of information requiring OMB approval under the Paperwork Reduction Act. Consequently, no information has been submitted to OMB for review.

*Congressional Review Act*

FHFA has determined that this regulatory action does not qualify as either a "rule" or a "major rule" under the Congressional Review Act. *See* 5 U.S.C. 804(2), (3).

**List of Subjects**

*12 CFR Part 1209*

Administrative practice and procedure, Penalties.

*12 CFR Part 1217*

Civil remedies, Program fraud.

<sup>13</sup> See 81 FR 43028, 43031 (July 1, 2016).

<sup>14</sup> So in original; no paragraphs (d) and (e) were enacted. *See* 12 U.S.C.A. 4513 n 1.

<sup>15</sup> 5 U.S.C. 603.

<sup>16</sup> 5 U.S.C. 603(a), 604(a).

12 CFR Part 1250

Flood insurance, Government-sponsored enterprises, Penalties, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the SUPPLEMENTARY INFORMATION and under the authority of 12 U.S.C. 4513b and 12 U.S.C. 4526, the Federal Housing Finance Agency hereby amends subchapters A and C of chapter XII of

Title 12 of the Code of Federal Regulations as follows:

**SUBCHAPTER A—ORGANIZATION AND OPERATIONS**

**PART 1209—RULES OF PRACTICE AND PROCEDURE**

■ 1. The authority citation for part 1209 continues to read as follows:

**Authority:** 5 U.S.C. 554, 556, 557, and 701 *et seq.*; 12 U.S.C. 1430c(d); 12 U.S.C. 4501,

4502, 4503, 4511, 4513, 4513b, 4517, 4526, 4566(c)(1) and (c)(7), 4581–4588, 4631–4641; and 28 U.S.C. 2461 note.

■ 2. Revise § 1209.80 to read as follows:

**§ 1209.80 Inflation adjustments.**

The maximum amount of each civil money penalty within FHFA’s jurisdiction, as set by the Safety and Soundness Act and thereafter adjusted in accordance with the Inflation Adjustment Act, is as follows:

| U.S. Code citation         | Description  | New adjusted maximum penalty amount |
|----------------------------|--|-------------------------------------|
| 12 U.S.C. 4636(b)(1) ..... | First Tier .....   | \$11,390                            |
| 12 U.S.C. 4636(b)(2) ..... | Second Tier .....  | 56,947                              |
| 12 U.S.C. 4636(b)(4) ..... | Third Tier (Regulated Entity or Entity-Affiliated party) ..... | 2,277,875                           |

■ 3. Revise § 1209.81 to read as follows:

**§ 1209.81 Applicability.**

The inflation adjustments set out in § 1209.80 shall apply to civil money penalties assessed in accordance with the provisions of the Safety and Soundness Act, 12 U.S.C. 4636, and subparts B and C of this part, for violations occurring after September 28, 2018.

**PART 1217—PROGRAM FRAUD CIVIL REMEDIES ACT**

■ 4. The authority citation for part 1217 continues to read as follows:

**Authority:** 12 U.S.C. 4501; 12 U.S.C. 4526; 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812.

■ 5. Amend § 1217.3 by revising paragraphs (a)(1) introductory text and (b)(1) introductory text to read as follows:

**§ 1217.3 Basis for civil penalties and assessments.**

(a) \* \* \* (1) A civil penalty of not more than \$11,181 may be imposed upon a person who makes a claim to FHFA for property, services, or money where the person knows or has reason to know that the claim:

\* \* \* \* \*

(b) \* \* \* (1) A civil penalty of up to \$11,181 may be imposed upon a person who makes a written statement to FHFA with respect to a claim, contract, bid or proposal for a contract, or benefit from FHFA that:

\* \* \* \* \*

**SUBCHAPTER C—ENTERPRISES**

**PART 1250—FLOOD INSURANCE**

■ 6. The authority citation for part 1250 continues to read as follows:

**Authority:** 12 U.S.C. 4521(a)(4) and 4526; 28 U.S.C. 2461 note; 42 U.S.C. 4001 note; 42 U.S.C. 4012a(f)(3), (4), (5), (8), (9), and (10).

■ 7. Amend § 1250.3 by revising paragraph (c) to read as follows:

**§ 1250.3 Civil money penalties.**

\* \* \* \* \*

(c) *Amount.* The maximum civil money penalty amount is \$534 for each violation that occurs before September 28, 2018, with total penalties not to exceed \$154,028. For violations that occur on or after September 28, 2018, the civil money penalty under this section may not exceed \$554 for each violation, with total penalties assessed under this section against an Enterprise during any calendar year not to exceed \$159,743.

\* \* \* \* \*

Dated: August 15, 2018.

**Melvin L. Watt,**

*Director, Federal Housing Finance Agency.*

[FR Doc. 2018–18517 Filed 8–28–18; 8:45 am]

**BILLING CODE 8070–01–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA–2018–0062; Airspace Docket No. 18–ASO–3]

RIN 2120–AA66

**Amendment of Class D and Class E Airspace; Pensacola, FL, and Establishment of Class E Airspace; Milton, FL**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends Class D airspace and Class E airspace extending upward from 700 feet above the surface at Choctaw Naval Outlying Field (NOLF), Milton, FL, by changing the city associated with the airport name in the above airspace classes and adjusting the geographic coordinates of the airport and the Santa Rosa TACAN navigation aid to match the FAA’s aeronautical database. Additionally, Class E surface airspace is established at Choctaw NOLF for the safety of aircraft landing and departing the airport when the air traffic control tower is closed. Also, an editorial change is made to the Class D airspace legal description replacing “Airport/Facility Directory” with the term “Chart Supplement”. This action enhances the safety and management of instrument flight rules (IFR) operations at this airport.

**DATES:** Effective 0901 UTC, November 8, 2018. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to <https://>