

and dated as of the date of execution by the party filing the same, or a duly authorized agent or attorney. The signer's address and telephone number must appear on the original. Counsel for the FCA shall sign the original of all papers filed on behalf of the FCA. All papers filed must name in the heading or on a title page, the parties, the docket number and the subject of the papers.

(c) *Copies.* Parties shall file an original and three copies of all documents and papers required or permitted to be filed under this subpart (except the transcript of testimony and exhibits), unless otherwise specifically provided by the Board.

**§ 622.19 Service.**

(a) *Service.* Except as otherwise provided in these rules, each party who files papers is responsible for serving a copy thereof upon the presiding officer and upon every other party or the attorney or representative of record of that party. A copy of all papers filed by the presiding officer or the Board, except for the transcript of testimony and exhibits, shall be served upon each of the parties. Service may be by personal service, private delivery service, or by express, certified or regular first-class mail. If a party is not represented, service shall be made at the last known address of the party or an officer thereof as shown on the records of the FCA.

(b) *Proof of service.* Proof of service of papers filed by a party shall be filed before action is to be taken thereon. The proof shall show the date and manner of service, and may be by written acknowledgment of service, by declaration of the person making service, or by certificate of an attorney or other representative of record. Failure to make proof of service shall not affect the validity of service. The presiding officer may allow the proof to be amended or supplied, unless to do so would result in material prejudice to a party.

**§ 622.20 Documents in proceedings confidential.**

Unless otherwise ordered by the Board or required by law, the entire record in any proceeding under this

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 a violation of the terms of a final cease and desist order issued under section 5.25 or 5.26 of the Act, or
- (b) For violation of any provision of the Act or any regulation issued under the Act.

**§ 622.53 Notification of alleged violations.**

Before determining whether to assess a civil money penalty and determining the amount of such penalty, the FCA shall notify the institution or person to be assessed of the violation(s) alleged to have occurred or to be occurring, and shall solicit the written views of the institution or person regarding the imposition of such penalty.

**§ 622.54 Relevant considerations.**

In determining the amount of any penalty assessed, the FCA shall consider the financial resources and good faith of the institution or person charged, the gravity of the violation, any previous violations, and such other matters as justice may require.

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

(a) *Notice of assessment.* After considering any written materials submitted in accordance with § 622.53 and the factors stated in § 622.54, the FCA shall commence a civil money penalty proceeding with the issuance of a notice of assessment of a civil money penalty. The notice of assessment shall 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 shall 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 in accordance with 12 U.S.C. 2268(c) and (d);

(6) That failure to request a hearing constitutes a waiver of the opportunity for a hearing and the notice of assessment shall constitute a final and unappealable order in accordance with 12 U.S.C. 2268(c); 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 receipt to the institution's or the person's last known address. Such service constitutes issuance of the notice.

**§ 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 shall 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.

**§ 622.58 Hearing on assessment.**

(a) *Time and place.* An institution or person requesting a hearing shall 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 shall apply to the hearing.