

§ 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.

§ 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 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 shall 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.

§ 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 statute 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 shall 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 should be made payable to the "Farm Credit Administration." Upon collection, the FCA shall forward the amount of the penalty to the Treasury of the United States.

§ 622.61 Adjustment of civil money penalties by the rate of inflation pursuant to section 31001(s) of the Debt Collection Improvement Act of 1996.

(a) A civil money penalty imposed pursuant to section 5.32 of the Act for a violation occurring after October 23, 1996 of a final cease and desist order issued under section 5.25 or 5.26 of the Act shall not exceed \$1,100 per day for each day the violation continues.

(b) A civil money penalty imposed pursuant to section 5.32 of the Act for a violation occurring after October 23, 1996 of any provision of the Act or any regulation issued under the Act shall not exceed \$550 per day for each day the violation continues.

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§§ 622.62—622.75 [Reserved]**Subpart C—Rules and Procedures Applicable to Suspension or Removal of an Individual Where Certain Crimes Are Charged or Proven****§ 622.76 Definitions.**

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

§ 622.77 Purpose and scope.

The rules and procedures set forth in this subpart apply to informal hearings afforded to any officer, director, or other person participating in the conduct of the affairs of a System institution who has been suspended or removed from office or prohibited from further participation in any manner in the conduct of the institution's affairs by a notice or order issued by the

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Board upon the grounds set forth in section 5.29 of the Act.

§ 622.78 Suspension, prohibition or removal.

(a) *Content.* The Board may serve a notice of suspension or prohibition or order of removal upon a director, officer or other person participating in the conduct of the affairs of an institution. A copy of such notice or order shall also be served upon the institution, whereupon the individual concerned shall immediately cease service to the institution or participation in the affairs of the institution. Any notice or order shall indicate the basis for the suspension, prohibition, or removal and shall inform the individual of the right to request in writing, within 30 days of being served with such notice or order, an opportunity to show at an informal hearing that continued service to or participation in the conduct of the affairs of the institution does not, or is not likely to, pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System.

(b) *Service.* A notice or order of suspension, removal or prohibition may be served by personal service or by certified mail with a return receipt to the last known address of the person being served.

§ 622.79 Petition for informal hearing.

(a) *Filing.* To obtain a hearing, the subject individual must file an original and three copies of a petition with the Board within 30 days of being served with the notice or order.

(b) *Content.* The petition shall:

(1) State whether the petitioner is requesting termination or modification of the notice or order;

(2) State with particularity how the petitioner intends to show that his or her continued service to or participation in the conduct of the affairs of the institution would not, or is not likely to, pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System;

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(3) Include a request to present oral testimony or witnesses at the hearing, if the petitioner desires to do so. The request should specify the names of the witnesses and a summary of their expected testimony; and

(4) Indicate whether the petitioner desires oral argument or elects to have the matter determined solely on the basis of written submissions.

§ 622.80 Informal hearing.

(a) *Time and place.* Upon receipt of a timely petition for a hearing, the Board shall notify the petitioner of the time and place fixed for the hearing and shall designate one or more Board members or FCA employees to preside ("designated FCA representative"). The hearing shall be scheduled to be held no later than 30 days from the date a petition for hearing is received unless the time is extended at the request of the petitioner. Notice of the hearing shall also be sent to the FCA's Office of General Counsel.

(b) *Appearance.* A petitioner may appear personally or through counsel to submit relevant written materials and oral argument. An attorney is subject to all the requirements and limitations imposed on attorneys in § 622.3 of subpart A. A representative(s) of the FCA's Office of General Counsel may participate in the hearing to the extent such representative deems appropriate.

(c) *Written material.* Any written material the petitioner wishes to have considered must be submitted to the designated FCA representative and the FCA's Office of General Counsel at least 10 days prior to the date of the hearing.

(d) *Oral testimony.* Oral testimony may be presented only if expressly permitted by the Board in the notice of hearing. The designated FCA representative may ask questions of any witness.

(e) *Transcripts.* Oral testimony, if any, and oral argument shall be recorded. A copy of the transcript shall be filed with the designated FCA representative, who shall have authority to correct the record sua sponte upon notice, or upon the motion of the petitioner or the representative of the FCA's Office of General Counsel. The designated FCA representative shall