

E. The Economic Growth and Regulatory Paperwork Reduction Act

Under section 2222 of EGRPRA, the FDIC is required to conduct a review at least once every 10 years to identify any outdated or otherwise unnecessary regulations. The FDIC completed its most recent comprehensive review of its regulations under EGRPRA in 2017 and did not receive any comments from the public concerning part 350. The burden reduction evidenced in this final rule is consistent with the objectives of the EGRPRA review process.

F. Riegle Community Development and Regulatory Improvement Act

Under section 302(b) of the Riegle Community Development and Regulatory Improvement Act, 12 U.S.C. 4802(b), new regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form. Because this rule rescission does not impose additional reporting, disclosures, or other requirements, but rather relieves banks of a disclosure requirement, this rule may take effect prior to the start of the next calendar quarter.

List of Subjects in 12 CFR Part 350

Accounting, Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

PART 350—[REMOVED AND RESERVED]

■ For the reasons stated in the preamble, and under the authority of 12 U.S.C 1817(a)(1), 1819 “Seventh” and “Tenth,” the Board of Directors of the Federal Deposit Insurance Corporation removes and reserves 12 CFR part 350.

Dated at Washington, DC, on March 12, 2019.

By order of the Board of Directors.
Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

[FR Doc. 2019-04944 Filed 3-15-19; 8:45 am]

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1209, 1217, and 1250

RIN 2590-AB01

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 adopting 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:* April 17, 2019.

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).¹ 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.² 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 (12 CFR part 1209) (the Enforcement regulations) govern cease and desist proceedings, civil money penalty assessment proceedings, and other administrative adjudications.³ FHFA's Flood Insurance regulation (12 CFR part 1250) governs flood insurance responsibilities as they pertain to the Enterprises.⁴ 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 \$150,000.⁵

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.⁶ The Adjustment Improvements Act required agencies to make an initial “catch-up” adjustment of their CMPs upon the statute's enactment,⁷ and further requires agencies to make additional adjustments on an annual basis following the initial adjustment.⁸

The Adjustment Improvements Act sets forth the formula that agencies must apply when making annual adjustments, based on the percent change between the October Consumer Price Index for All Urban Consumers (the CPI-U) preceding the date of the last adjustment and the October CPI-U for the year before that.

² *Id.*

³ See 12 CFR part 1209.

⁴ See 12 CFR part 1250.

⁵ See generally, 31 U.S.C. 3801 *et seq.*

⁶ See 28 U.S.C. 2461 note.

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

⁸ FHFA promulgated its first annual adjustment of its CMP with a final rule published August 29, 2018. 83 FR 43965.

¹ See Safety and Soundness Act, 12 U.S.C. 4513 and 4631-4641.

II. 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 of the Enforcement regulations 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.⁹ 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.¹⁰ The maximum CMP amounts for FHFA penalties under 12 U.S.C. 4636 were last

adjusted in 2018.¹¹ Since FHFA is making this round of adjustments in calendar year 2019, and the maximum CMP amounts were last set in calendar year 2018, the inflation adjustment amount for each maximum CMP amount was calculated by comparing the CPI-U for October 2017 with the CPI-U for October 2018, resulting in an inflation factor of 1.02522. 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, and was then summed with the previous maximum penalty amount to determine the new adjusted maximum penalty amount.¹² The tables below set out these items accordingly.

ENFORCEMENT REGULATIONS

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	11,390	287	11,677
12 U.S.C. 4636(b)(2)	Second Tier	56,947	1,436	58,383
12 U.S.C. 4636(b)(4)	Third Tier (Entity-affiliated party or Regulated entity)	2,277,875	57,448	2,335,323

PROGRAM FRAUD CIVIL REMEDIES REGULATION

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	11,181	282	11,463
31 U.S.C. 3802(a)(2)	Maximum penalty per false statement	11,181	282	11,463

FLOOD INSURANCE REGULATION

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	554	14	568
42 U.S.C. 4012a(f)(5)	Maximum total penalties assessed against an Enterprise in a calendar year.	159,743	4,029	163,772

III. 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)).¹³ The Acting 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. The inflation adjustments effected by the final rule are mandated by law, and 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.

IV. Regulatory Impact

Administrative Procedure Act

FHFA finds good cause that notice and an opportunity to comment on this

⁹ See, e.g., 12 CFR 1209.7(c); FHFA Enforcement Policy, AB 2013-03 (May 31, 2013).

¹⁰ 28 U.S.C. 2461 note.

¹¹ See 83 FR 43965 (August 29, 2018).

¹² 28 U.S.C. 2461 note.

¹³ So in original; no paragraphs (d) and (e) were enacted. See 12 U.S.C.A. 4513 n. 1.

final rule are unnecessary under section 553(b) of the Administrative Procedure Act (APA), 5 U.S.C. 553(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 adopting these amendments as a final rule.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA),¹⁴ 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.¹⁵ 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

In accordance with the Congressional Review Act,¹⁶ FHFA has determined that this final rule is not a major rule and has verified this determination with OMB.

Lists of Subjects

12 CFR Part 1209

Administrative practice and procedure, Penalties.

12 CFR Part 1217

Civil remedies, Program fraud.

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	\$11,677
12 U.S.C. 4636(b)(2)	Second Tier	58,383
12 U.S.C. 4636(b)(4)	Third Tier (Regulated Entity or Entity-Affiliated party)	2,335,323

■ 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 April 17, 2019.

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 \$11,463 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 \$11,463 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 \$554 for each violation that occurs before April 17, 2019, with total penalties not to exceed \$159,743. For violations that occur on or after April 17, 2019, the civil money penalty under this section may not exceed \$568 for each violation, with total penalties assessed under this

¹⁴ 5 U.S.C. 603.

¹⁵ 5 U.S.C. 603(a), 604(a).

¹⁶ See 5 U.S.C. 804(2).

section against an Enterprise during any calendar year not to exceed \$163,772.

* * * * *

Dated: March 7, 2019.

Joseph M. Otting,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2019-04943 Filed 3-15-19; 8:45 am]

BILLING CODE 8070-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA-2019-0200]

Operators of Boeing Company Model 737-8 and Boeing Company Model 737-9 Airplanes: Emergency Order of Prohibition

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notification of Emergency Order of Prohibition.

SUMMARY: This Emergency Order of Prohibition is issued by the Federal Aviation Administration (FAA). Effective March 13, 2019, this Order prohibits the operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes by U.S. certificated operators. This Order also prohibits the operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 series airplanes in the territory of the United States. Airplanes covered by this Order, if in flight at the time this Order is issued, may proceed to and complete their soonest planned landing, but may not again takeoff.

DATES: The Emergency Order of Prohibition is effective March 13, 2019.

FOR FURTHER INFORMATION CONTACT: John Piccola, Federal Aviation Administration, Aircraft Certification Service, System Oversight Division, AIR-800, 2200 South 216th Street, Des Moines, WA 98198 (Email: john.piccola@faa.gov; Tel: 206-231-3595).

SUPPLEMENTARY INFORMATION: The full text of the Emergency Order of Prohibition issued March 13, 2019 is set forth below:

Emergency Order of Prohibition

This Emergency Order of Prohibition is issued by the Federal Aviation Administration (FAA) pursuant to 49 U.S.C. 40113(a) and 46105(c). Effective immediately, this Order prohibits the

operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes by U.S. certificated operators. This Order also prohibits the operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 series airplanes in the territory of the United States. Airplanes covered by this Order, if in flight at the time this Order is issued, may proceed to and complete their soonest planned landing, but may not again takeoff.

Authority

The FAA Administrator promotes the safe flight of civil aircraft by, among other things, prescribing minimum standards for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. 49 U.S.C. 44701(a)(5). The FAA Administrator is authorized to take necessary and appropriate actions to carry out his aviation safety duties and powers under part A (“Air Commerce and Safety”) of subtitle VII of Title 49 of the United States Code, including conducting investigations, issuing orders, and prescribing regulations, standards, and procedures. 49 U.S.C. 40113(a). When the Administrator determines that an emergency exists related to safety in air commerce and requires immediate action, the Administrator may issue immediately effective orders to meet the emergency. 49 U.S.C. 46105(c).

Scope and Effect

This Order applies to all persons operating the Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes in the territory of the United States, and to U.S. certificated operators conducting flights with Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes. These airplanes are hereinafter referred to as the Boeing 737 MAX series airplanes.

This Order is effective immediately. This Order prohibits the operation of Boeing 737 MAX series airplanes by U.S. certificated operators. This Order also prohibits the operation of Boeing 737 MAX series airplanes in the territory of the United States. Boeing 737 MAX series airplanes covered by this Order, if in flight at the time this Order is issued, may proceed to and complete their soonest planned landing, but may not again takeoff. Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199, including to allow non-passenger carrying flights, as needed, for purposes of flight to a base for storage, production flight testing, repairs, alterations, or maintenance. Experimental airworthiness certificates may be issued

in accordance with 14 CFR 21.191 to support certification of design changes.

This Order remains in effect until the issuance of an applicable FAA order rescinding or modifying this Order. The Administrator will rescind or modify this Order, as appropriate, if the Administrator determines that the prohibitions prescribed herein are no longer necessary to address an emergency related to safety in air commerce.

Basis for Order

Based on the initial investigations and the reliable and credible evidence presently available, the Acting Administrator finds that:

1. On October 29, 2018, a Boeing Company Model 737-8 operated by Lion Air as flight JT610 crashed after taking off from Soekarno-Hatta Airport in Jakarta, Indonesia. Flight JT610 departed from Jakarta with an intended destination of Pangkal Pinang, Indonesia. It departed Jakarta at 6:20 a.m. (local time), and crashed into the Java Sea approximately 13 minutes later. One hundred and eighty-four passengers and five crewmembers were on board. There were no survivors. An Indonesian-led investigation into the cause of this accident is ongoing, supported by the National Transportation Safety Board (NTSB), FAA, and Boeing.

2. On March 10, 2019, Ethiopian Airlines flight ET302, also a Boeing Company Model 737-8, crashed at 8:44 a.m. (local time), six minutes after takeoff. The flight departed from Bole International Airport in Addis Ababa, Ethiopia with an intended destination of Nairobi, Kenya. The accident site is near Bishoftu, Ethiopia. One hundred and forty-nine passengers and eight crewmembers were on board. None survived. An Ethiopian-led investigation into the cause of this accident is ongoing, supported by the NTSB, FAA, and Boeing.

3. The Boeing Company Model 737-8 and the Boeing Company Model 737-9 comprise the Boeing 737 MAX series, sharing nearly identical design features. The Boeing 737 MAX series airplanes are narrow-body airplanes with two high-bypass turbofan engines. The Boeing 737 MAX series airplanes are used for passenger carrying operations and are equipped with new CFM LEAP-1B engines and larger cockpit displays.

Under 49 U.S.C. 46105(c), the Acting Administrator has determined that an emergency exists related to safety in air commerce. On March 13, 2019, the investigation of the ET302 crash developed new information from the wreckage concerning the aircraft's