

TABLE 2 TO PARAGRAPH (b)—Continued

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$950,000 or over	[\$12,845 + (\$342 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$27,404 × [1 + (.25 × Number of previous violations)].

^a The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be \$9,420.

* * * * *

§ 111.44 [Amended]

■ 4. Amend § 111.44(a)(1) by removing “\$160” and adding, in its place, “\$172”.

Dated: December 22, 2022.

On behalf of the Commission,

Allen J. Dickerson,

Chairman, Federal Election Commission.

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1209, 1217, and 1250

RIN 2590-AB26

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* December 29, 2022, and applicable beginning January 15, 2023.

FOR FURTHER INFORMATION CONTACT: Frank R. Wright, Assistant General Counsel, at (202) 649-3087, Frank.Wright@fhfa.gov (not a toll-free number); Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

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.

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

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 most recent annual adjustment of its CMP with a final rule published January 12, 2022. 87 FR 1659.

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

² *Id.*

³ See 12 CFR part 1209.

⁴ See 12 CFR part 1250.

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 were last adjusted in 2022.¹¹ Since FHFA is making this round of adjustments in calendar year 2023, and the maximum CMP amounts were last set in calendar year 2022, the inflation adjustment amount for each maximum CMP amount was calculated by comparing the CPI-U for October 2021

with the CPI-U for October 2022, resulting in an inflation factor of 1.07745. 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	12,771	989	13,760
12 U.S.C. 4636(b)(2)	Second Tier	63,855	4,946	68,801
12 U.S.C. 4636(b)(4)	Third Tier (Entity-affiliated party or Regulated entity).	2,554,223	197,825	2,752,048

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	12,537	971	13,508
31 U.S.C. 3802(a)(2)	Maximum penalty per false statement	12,537	971	13,508

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	621	48	669
42 U.S.C. 4012a(f)(5)	Maximum total penalties assessed against an Enterprise in a calendar year.	179,123	13,873	192,996

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 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

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. 553.¹⁴ 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.

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 87 FR 1659 (January 12, 2022).

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.

¹⁴ 28 U.S.C. 2461 note, section 4(b)(2).

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA),¹⁵ 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.¹⁶ 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.

Congressional Review Act

The rule is not a “major rule” as defined by the Congressional Review Act, codified at 5 U.S.C. 801 *et seq.* The rule will not result in: (1) An annual effect on the economy of \$100,000,000 or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or

the ability of United States-based companies to compete with foreign-based companies.¹⁷

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.

List 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 record keeping requirements.

Accordingly, for the reasons stated in the preamble 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:

TABLE 1 TO § 1209.80

U.S. Code citation	Description	New adjusted maximum penalty amount
12 U.S.C. 4636(b)(1)	First Tier	\$13,760
12 U.S.C. 4636(b)(2)	Second Tier	68,801
12 U.S.C. 4636(b)(4)	Third Tier (Regulated Entity or Entity-Affiliated party)	2,752,048

■ 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 on or after January 15, 2023.

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 \$13,508 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 \$13,508 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 \$621 for each violation that occurs before January 15, 2023, with total penalties not to exceed \$179,123. For violations that occur on or after January 15, 2023, the civil money penalty under this section may not exceed \$669 for each violation, with total penalties assessed under this

¹⁵ 5 U.S.C. 603.

¹⁶ 5 U.S.C. 603(a), 604(a).

¹⁷ 5 U.S.C. 804(2).

section against an Enterprise during any calendar year not to exceed \$192,996.

* * * * *

Sandra L. Thompson,
 Director, Federal Housing Finance Agency.
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DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2022-1248; Project Identifier MCAI-2022-00609-T; Amendment 39-22286; AD 2022-27-01]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A350-941 and -1041 airplanes. This AD is prompted by a report that during flight and fatigue testing it was detected that some fasteners installed in the center wing box (CWB) rotated inside their fastener holes. This AD requires replacing affected fasteners and applying additional head nut cap protection at the front and rear spars in the CWB, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 2, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 2, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2022-1248; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket

contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu*. You may find this EASA AD on the EASA website at *ad.easa.europa.eu*.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at *regulations.gov* under Docket No. FAA-2022-1248.

FOR FURTHER INFORMATION CONTACT: Dat Le, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 516-228-7317; email *Dat.V.Le@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A350-941 and -1041 airplanes. The NPRM published in the **Federal Register** on October 20, 2022 (87 FR 63709). The NPRM was prompted by AD 2022-0080, dated May 9, 2022, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2022-0080) (referred to after this as the MCAI). The MCAI states that during flight and fatigue testing it was detected that some fasteners installed in the CWB rotated inside their fastener holes. Investigation revealed there was insufficient friction for the application.

In the NPRM, the FAA proposed to require replacing affected fasteners and applying additional head nut cap protection at the front and rear spars in

the CWB, as specified in EASA AD 2022-0080. The FAA is issuing this AD to address fasteners installed in the CWB rotating inside their fastener holes, which if not corrected, could lead to loss of a fastener clamping and cracking of the nut sealant cover, possibly resulting, in case of lightning strike, in a fuel tank explosion and consequent loss of the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2022-1248.

Discussion of Final Airworthiness Directive Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. This AD is adopted as proposed in the NPRM.

Related Service Information Under 14 CFR Part 51

EASA AD 2022-0080 specifies procedures for replacing affected fasteners installed on the left-hand and right-hand CWB at the front and rear spar areas and for adding head nut cap protection at the front and rear spars in the CWB. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 30 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
83 work-hours × \$85 per hour = \$7,055	\$7,500	\$14,555	\$436,650

The FAA has included all known costs in its cost estimate. According to

the manufacturer, however, some or all of the costs of this AD may be covered

under warranty, thereby reducing the cost impact on affected operators.