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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Part 1411

RIN 3055-AA05

Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation) through its Board (Board) adopts a final regulation that adjusts each civil money penalty (CMP) under its jurisdiction by the rate of inflation using the formula prescribed in the Debt Collection Improvement Act of 1996 (DCIA). This statute requires all Federal agencies to adjust each CMP by the rate of inflation and publish the adjustment within 180 days after enactment of DCIA and at least once every 4 years thereafter. Any increase in a CMP shall apply only to violations that occur after the effective date of this regulation.

EFFECTIVE DATE: October 23, 1996.

FOR FURTHER INFORMATION CONTACT: Dorothy L. Nichols, General Counsel, Farm Credit System Insurance Corporation, McLean, VA 22102-5090, (703) 883-4211, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: DCIA¹ amended the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990² (FCMPIA Act) by requiring every Federal agency to adjust each CMP³ by

the rate of inflation pursuant to the inflation adjustment formula in section 5(b) of the FCMPIA Act. Each Federal agency is required to publish the adjusted penalty to implement the DCIA by October 23, 1996, which is 180 days after the date that DCIA was enacted, and at least once every 4 years thereafter. Section 7 of the amended FCMPIA Act specifies that only CMPs for violations that occur after October 23, 1996 will be adjusted for inflation.

The inflation adjustment is based on the percentage increase in the Consumer Price Index⁴ (CPI) for the period from June of the calendar year when the CMP was last set until June of the calendar year preceding the adjustment. Furthermore, each CMP that has been adjusted for inflation must be rounded to a number prescribed by section 5(a) of the FCMPIA Act. Another provision of the DCIA specifies that the first adjustment of a CMP may not exceed 10 percent of the original penalty.

Two provisions of section 5.65 of the Farm Credit Act of 1971, as amended (Act) authorize the Corporation to impose CMPs on Farm Credit System (System) insured banks. First, section 5.65(c) specifies that any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required under part E of the Act shall be subject to a penalty of \$100 for each day that the violation continues. 12 U.S.C. 2277a-14(c). Second, section 5.65(d) makes it unlawful for anyone convicted of a criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any System institution, without the prior written consent of the Farm Credit Administration. 12 U.S.C. 2277a-14(d). For a willful violation of this section, the Corporation may subject the institution to a penalty of \$100 for each day that the violation continues.

The maximum penalty that the Corporation can impose under section 5.65 (c) and (d) of the Act for a violation of these provisions is \$110 per day, when it is adjusted for inflation, pursuant to the requirements of the DCIA. The Corporation now adopts in final a new § 1411.1. This regulation

adjusts these two CMPs to the rate of inflation, as required by the DCIA.

DCIA provides Federal agencies with no discretion about how to adjust CMPs to the rate of inflation, and it also requires the inflation adjusted penalty to take effect on October 23, 1996. This regulation, implementing DCIA as required, is minor, technical, and noncontroversial. For these reasons, the Corporation finds good cause to determine that public notice and comment for this new regulation is unnecessary, impractical, and contrary to the public interest, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(a)(3)(B). The same rationale provides the Corporation with good cause to adopt an effective date for this regulation that is less than 30 days after the date of publication in the Federal Register and prior to filing any reports called for in the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801-808.

List of Subjects in 12 CFR Part 1411

Banks, banking, Civil money penalties, Penalties.

For the reasons stated in the preamble, part 1411 of chapter XIV, title 12 of the Code of Federal Regulations is added to read as follows:

PART 1411—RULES OF PRACTICE AND PROCEDURE

Authority: Secs. 5.58(10), 5.65(c) and (d) of the Farm Credit Act (12 U.S.C. 2277a-7(10), 2277a-14(c) and (d)).

Subpart A—Rules and Procedures for Assessment and Collection of Civil Money Penalties

§ 1411.1 Inflation adjustment of civil money penalties for failure to file a certified statement, pay any premium required or obtain approval before employment of persons convicted of criminal offenses.

A civil money penalty imposed pursuant to section 5.65(c) or (d) of the Act for a violation occurring on or after October 23, 1996 shall not exceed \$110 per day for each day the violation continues.

Dated: October 18, 1996.

Floyd Fithian,

Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. 96-27248 Filed 10-23-96; 8:45 am]

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¹ Pub. L. 104-134, 31001(s), 110 Stat. 1321-358, (Apr. 26, 1996). This provision is codified at 28 U.S.C. 2461 note.

² Pub. L. 101-410, 104 Stat. 890, (Oct. 5, 1990).

³ Section 3(2) of the amended FCMPIA Act defines a CMP as any penalty, fine, or other sanction that: (1) Either is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law; (2) is assessed or enforced by an agency pursuant to

Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

⁴ The CPI is published by the Department of Labor, Bureau of Statistics.