

**Office of Thrift Supervision, Treasury**

**§ 509.104**

foregoing, the Office may seek to attach the party's assets or to have a receiver appointed to secure payment of the potential civil money penalty or other obligation in advance of the hearing in accordance with section 8(i)(4) of the FDIA (12 U.S.C. 1818(i)(4)).

(2) Checks in payment of civil penalties shall be made payable to the Treasurer of the United States and sent to the Controller's Division of the Office. Upon receipt, the Office shall forward the check to the Treasury of the United States.

(c) *Inflation adjustment.* Under the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note), OTS must adjust for inflation the civil monetary penalties in statutes that it administers. The following chart displays the adjusted civil money penalties. The amounts in this chart apply to violations that occur after November 4, 2004:

U.S. code citation	CMP description	New maximum amount
12 U.S.C. 1464(v)(4).	Reports of Condition—1st Tier.	\$2,200.
12 U.S.C. 1464(v)(5).	Reports of Condition—2nd Tier.	\$27,500.
12 U.S.C. 1464(v)(6).	Reports of Condition—3rd Tier.	\$1,250,000.
12 U.S.C. 1467(d)	Refusal to Cooperate in Exam.	\$6,500.

U.S. code citation	CMP description	New maximum amount
12 U.S.C. 1467a(i)(2).	Holding Company Act Violation.	\$27,500.
12 U.S.C. 1467a(i)(3).	Holding Company Act Violation.	\$27,500.
12 U.S.C. 1467a(r)(1).	Late/Inaccurate Reports—1st Tier.	\$2,200.
12 U.S.C. 1467a(r)(2).	Late/Inaccurate Reports—2nd Tier.	\$27,500.
12 U.S.C. 1467a(r)(3).	Late/Inaccurate Reports—3rd Tier.	\$1,250,000.
12 U.S.C. 1817(j)(16)(A).	Change in Control—1st Tier.	\$6,500.
12 U.S.C. 1817(j)(16)(B).	Change in Control—2nd Tier.	\$32,500.
12 U.S.C. 1817(j)(16)(C).	Change in Control—3rd Tier.	\$1,250,000.
12 U.S.C. 1818(i)(2)(A).	Violation of Law or Unsafe or Unsound Practice—1st Tier.	\$6,500.
12 U.S.C. 1818(i)(2)(B).	Violation of Law or Unsafe or Unsound Practice—2nd Tier.	\$32,500.
12 U.S.C. 1818(i)(2)(C).	Violation of Law or Unsafe or Unsound Practice—3rd Tier.	\$1,250,000.
12 U.S.C. 1884 ....	Violation of Security Rules.	\$110.
12 U.S.C. 3349(b)	Appraisals Violation—1st Tier.	\$6,500.
12 U.S.C. 3349(b)	Appraisals Violation—2nd Tier.	\$32,500.
12 U.S.C. 3349(b)	Appraisals Violation—3rd Tier.	\$1,250,000.
42 U.S.C. 4012a(f)	Flood Insurance ....	\$385 (per 4012a(f) violation). \$125,000 (per calendar year).

[56 FR 38306, Aug. 12, 1991, as amended at 65 FR 61262, Oct. 17, 2000; 69 FR 64251, Nov. 4, 2004]

**§ 509.104 Additional procedures.**

(a) *Replies to exceptions.* Replies to written exceptions to the administrative law judge's recommended decision, findings, conclusions or proposed order pursuant to § 509.39 of this part shall be filed within 10 days of the date such written exceptions were required to be filed.

(b) *Motions.* All motions shall be filed with the administrative law judge and an additional copy shall be filed with the Secretary to the Office, who receives adjudicatory filings, ("Secretary"); provided, however, that once the administrative law judge has certified the record to the Director pursuant to § 509.38 of this part, all motions must be filed with the Director, to the attention of the Secretary, within the

10 day period following the filing of exceptions allowed for the filing of replies to exceptions. Responses to such motions filed in a timely manner with the Director, other than motions for oral argument before the Director, shall be allowed pursuant to the procedures at § 509.23(d) of this part. No response is required for the Director to make a determination on a motion for oral argument.

(c) *Authority of administrative law judge.* In addition to the powers listed in § 509.5 of this part, the administrative law judge shall have the authority to deny any dispositive motion and shall follow the procedures set forth for motions for summary disposition at § 509.29 of this part and partial summary disposition at § 509.30 of this part

in making determinations on such motions.

(d) *Notification of submission of proceeding to the Director.* Upon the expiration of the time for filing any exceptions, any replies to such exceptions or any motions and any ruling thereon, and after receipt of certified record, the Office shall notify the parties within ten days of the submission of the proceeding to the Director for final determination.

(e) *Extensions of time for final determination.* The Director may, *sua sponte*, extend the time for final determination by signing an order of extension of time within the 90 day time period and notifying the parties of such extension thereafter.

(f) *Service upon the Office.* Service of any document upon the Office shall be made by filing with the Secretary, in addition to the individuals and/or offices designated by the Office in its Notice issued pursuant to §509.18 of this part, or such other means reasonably suited to provide notice of the person and/or office designated to receive filings.

(g) *Filings with the Director.* An additional copy of all materials required or permitted to be filed with or referred to the administrative law judge pursuant to subpart A and B of this part shall be filed with the Secretary. This rule shall not apply to the transcript of testimony and exhibits adduced at the hearing or to proposed exhibits submitted in advance of the hearing pursuant to an order of the administrative law judge under §509.32 of this part. Materials required or permitted to be filed with or referred to the Director pursuant to subparts A and B of this part shall be filed with the Director, to the attention of the Secretary.

(h) *Presence of cameras and other recording devices.* The use of cameras and other recording devices, other than those used by the court reporter, shall be prohibited and excluded from the proceedings.

[56 FR 38306, Aug. 12, 1991, as amended at 58 FR 4311, Jan. 14, 1993; 61 FR 20356, May 6, 1996]

## PART 510—MISCELLANEOUS ORGANIZATIONAL REGULATIONS

Sec.

510.2 Provisions related to regulations of the Office.

510.4 Service of process.

510.5 Release of unpublished OTS information.

AUTHORITY: 12 U.S.C. 1462a, 1463, 1464; Pub. L. 101-410, 104 Stat. 890; Pub. L. 104-134, 110 Stat. 1321-358.

SOURCE: 54 FR 49456, Nov. 30, 1989, unless otherwise noted.

### §510.2 Provisions related to regulations of the Office.

(a) *Amendments.* The Office expressly reserves the right to amend (including the right to alter or repeal) the regulations set forth in this chapter.

(b) *Waiver or relaxation of regulatory provisions with respect to disaster or emergency areas.* Whenever the President of the United States determines that a major disaster or emergency exists, or declares an area a major disaster or emergency area, the Office may, to the extent not inconsistent with law, by resolution waive or relax any limitations pertaining to the operations of Federal savings associations and savings associations in any area or areas affected by such disaster or emergency so declared.

(c) *Bar on participation in notice and comment rulemaking by suspended or disbarred persons.* No person who has been suspended or debarred from practice before the Office in accordance with the provisions of part 513 of this chapter may submit to the Office, either directly or on behalf of an interested party, any written documents or petitions otherwise permitted by the Administrative Procedures Act.

[54 FR 49456, Nov. 30, 1989, as amended at 60 FR 66716, Dec. 26, 1995]

### §510.4 Service of process.

(a) *Service of Process.* Service of process may be made upon the Office by delivering a copy of the summons and complaint to the U.S. Attorney for the district in which the action is brought or to an assistant U.S. Attorney or clerical employee designated by the U.S. Attorney in a writing filed with the clerk of the court, and by sending