

a member of the Office of Chief Counsel, or other counsel assigned by the General Counsel to represent the Director, or a respondent or respondent's representative, as appropriate. If a filing is signed by a respondent's representative it shall state that representative's mailing address and telephone number. A respondent who represents himself or herself shall sign his or her individual name and state his or her address and telephone number on every filing. A witness deposition shall be signed by the witness.

(i) *Effect of signature.* The signature shall constitute a certification that:

(A) The person signing the filing has read the filing;

(B) To the best of his or her knowledge, information, and belief, formed after reasonable inquiry, the filing is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(C) The filing is not made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of adjudication.

(ii) If a filing is not signed, the Administrative Law Judge (or the Secretary's designee) shall strike the filing, unless it is signed promptly after the omission is called to the attention of the person making the filing.

(d) Service of written orders or decisions issued by the Administrative Law Judge or Secretary's designee. Written orders or decisions issued by the Administrative Law Judge or the Secretary's designee shall be served promptly on each respondent and the Director pursuant to any method of service authorized under paragraph (a) of this section. Service of such orders or decisions shall be made by the Administrative Law Judge or the Secretary's designee, as appropriate.

**§ 501.706 Prepenalty Notice; issuance by Director.**

(a) *When required.* If the Director has reason to believe there has occurred a violation of any provision of parts 500 or 515 of this chapter or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary

pursuant to parts 500 or 515 of this chapter or otherwise under the Trading With the Enemy Act, and the Director determines that further civil proceedings are warranted, the Director shall issue a Prepenalty Notice. The Prepenalty Notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice.*

(1) *Facts of violation.* The Prepenalty Notice shall describe the alleged violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The Prepenalty Notice shall inform the respondent of respondent's right to make a written presentation within the time prescribed in § 501.707 as to why the respondent believes there should be no finding of a violation or why, if the respondent admits the violation, a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed. The Prepenalty Notice shall also inform the respondent that:

(i) The act of submitting a written response by the respondent is a factor that may result in a lower penalty absent any aggravating factors; and

(ii) If the respondent fails to respond to the Prepenalty Notice within the applicable 60-day period set forth in § 501.707, the Director may proceed with the issuance of a Penalty Notice.

(3) *Right to request a hearing.* The Prepenalty Notice shall inform the respondent of respondent's right, if a subsequent Penalty Notice is issued, to request an administrative hearing. The Director will not consider any request for an administrative hearing until a Penalty Notice has been issued.

**§ 501.707 Response to Prepenalty Notice.**

(a) *Deadline for response.*

(1) The respondent shall have 60 days after the date of service of the Prepenalty Notice pursuant to § 501.705(a) to respond thereto. The response, signed and dated, shall be served as provided in § 501.705(b).

(2) In response to a written request by the respondent, the Director may,

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at his or her discretion for the purpose of conducting settlement negotiations or for other valid reasons, grant additional time for a respondent to submit a response to the Prepenalty Notice.

(3) The failure to submit a response within the time period set forth in this paragraph (a), including any additional time granted by the Director, shall be deemed to be a waiver of the right to respond to the Prepenalty Notice.

(b) Form and contents of response.

(1) *In general.* The response need not be in any particular form, but must be typewritten and contain the heading "Response to Prepenalty Notice" and the Office of Foreign Assets Control identification number shown near the top of the Prepenalty Notice. It should be responsive to the allegations contained therein and set forth the nature of the respondent's admission of the violation, or defenses and claims for mitigation, if any.

(i) The response must admit or deny specifically each separate allegation of violation made in the Prepenalty Notice. If the respondent is without knowledge as to an allegation, the response shall so state, and such statement shall constitute a denial. Any allegation not specifically addressed in the response shall be deemed admitted.

(ii) The response must set forth any additional or new matter or arguments the respondent seeks, or shall seek, to use in support of all defenses or claims for mitigation. Any defense the respondent wishes to assert must be included in the response.

(iii) The response must accurately state (for each respondent, if applicable) the respondent's full name and address for future service, together with a current telephone and, if applicable, facsimile machine number. If respondent is represented, the representative's full name and address, together with telephone and facsimile numbers, may be provided instead of service information for the respondent. The respondent or respondent's representative of record is responsible for providing timely written notice to the Director of any subsequent changes in the information provided.

(iv) *Financial disclosure statement requirement.* Any respondent who asserts financial hardship or an inability to

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pay a penalty shall include with the response a financial disclosure statement setting forth in detail the basis for asserting the financial hardship or inability to pay a penalty, subject to 18 U.S.C. 1001.

(2) *Settlement.* In addition, or as an alternative, to a written response to a Prepenalty Notice, the respondent or respondent's representative may seek settlement of the alleged violation(s). See § 501.710. In the event of settlement prior to the issuance of a Penalty Notice, the claim proposed in the Prepenalty Notice will be withdrawn and the respondent will not be required to make a written response to the Prepenalty Notice. In the event no settlement is reached, a written response to the Prepenalty Notice is required pursuant to paragraph (c) of this section.

### § 501.708 Director's finding of no penalty warranted.

If after considering any written response to the Prepenalty Notice submitted pursuant to § 501.707 and any other relevant facts, the Director determines that there was no violation or that the violation does not warrant the imposition of a civil monetary penalty, the Director promptly shall notify the respondent in writing of that determination and that no civil monetary penalty pursuant to this subpart will be imposed.

### § 501.709 Penalty notice.

(a) If, after considering any written response to the Prepenalty Notice, and any other relevant facts, the Director determines that there was a violation by the respondent and that a monetary penalty is warranted, the Director promptly shall issue a Penalty Notice informing the respondent that, absent a timely request for an administrative hearing, the Director will impose the civil monetary penalty described in the Penalty Notice. The Penalty Notice shall inform the respondent:

(1) Of the respondent's right to submit a written request for an administrative hearing not later than 30 days after the date of service of the Penalty Notice;

(2) That in the absence of a timely request for a hearing, the issuance of the