



## **RAILROAD RETIREMENT BOARD**

### **20 CFR Part 355**

### **RIN 3220-AB88**

### **Regulations Under the Administrative False Claims Act**

**AGENCY:** Railroad Retirement Board.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** The Railroad Retirement Board amends its regulations to implement statutory amendments to the Administrative False Claims Act. These amendments revise and remove procedures under the Administrative False Claims Act that are no longer applicable due to statutory changes and implement new procedures allowing administrative false claims to be referred to the Civilian Board of Contract Appeals for adjudication.

**DATES:** This rule is effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, without further action, unless adverse comment is received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If adverse comment is received, the Railroad Retirement Board will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** You may submit comments, identified by RIN 3320-AB88, through any of the following methods:

1. Internet – Send inquiries via e-mail to [SecretarytotheBoard@rrb.gov](mailto:SecretarytotheBoard@rrb.gov)
2. Fax – (312) 751-7102.
3. Mail – Secretary to the Board, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois, 60611-1275. Mailed comments must be received by the close of the comment period.

Do not submit the same comment multiple times or by more than one method. Do not include any personally identifiable information (such as name, address, or other contact information) or

confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received, and will not be deleted, modified, or redacted. Comments may be submitted anonymously. Regardless of which method you choose, please indicate that your comments refer to RIN number 3320-AB88.

**FOR FURTHER INFORMATION CONTACT:** Peter J. Orlowicz, Senior Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611-1275, (312) 751-4922.

**SUPPLEMENTARY INFORMATION:** The Administrative False Claims Act, 31 U.S.C. chapter 38, establishes administrative procedures for imposing civil penalties and assessments against individuals who make, submit, or present, or cause to be made, submitted or presented, claims or written statements that are made to authorities or their agency and are false, fictitious or fraudulent. The purpose of this Act is twofold: (1) to provide federal agencies that are the victims of false, fictitious, and fraudulent claims and statements with an administrative remedy to recompense such agencies for losses resulting from such claims and statements, to permit administrative proceedings to be brought against persons who make, present, or submit such claims and statements, and to deter the making, presenting, and submitting of such claims and statements in the future; and (2) to provide due process protections to all persons who are subject to the administrative adjudication of false, fictitious, or fraudulent claims or statements.

In section 5203 of the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, Congress made substantial amendments to the Administrative False Claims Act. Pub. L. 118-159, sec. 5203 (Dec. 23, 2024). First, Congress amended the definition of a presiding officer to allow agencies who do not employ administrative law judges appointed under 5 U.S.C. 3105 to submit appropriate cases to a member of a board of contract appeals established by 41 U.S.C. 7105 as a presiding officer. In such cases, Congress provided that the required hearing shall be conducted by the presiding officer according to rules and procedures promulgated by the board of contract appeals, rather than the referring agency. Second, Congress increased the maximum value of disputed claims

that may be heard by a presiding officer to \$1,000,000 and mandated that this ceiling be adjusted annually for inflation in the same manner as civil monetary penalties under the Federal Civil Penalties Inflation Adjustment Act. Third, Congress amended the collection of civil penalties under 31 U.S.C. chapter 38 to permit agencies to be reimbursed for any expended costs in support of the investigation or prosecution of the action from the recovered amounts, with such recovered amounts remaining available to the agency until expended. Finally, Congress modified the statute of limitations for bringing an action to the later of 6 years after the date of violation or 3 years after the date on which facts material to the action are known or reasonably should have been known by the agency head, but in no event more than 10 years after the violation. Congress then directed agencies to revise and promulgate regulations to carry out the amended Act within 180 days of the amendments being enacted.

Accordingly, the Railroad Retirement Board (Board) has comprehensively revised its implementing regulations at 20 CFR part 355. In doing so, the Board is withdrawing regulatory definitions in § 355.2 that are no longer necessary or are inconsistent with the amendments in the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025. As the Board does not employ administrative law judges, the definition of presiding officer is being revised to mean a member of a board of contract appeals established by 41 U.S.C. 7105, and the Board will now refer to a person alleged to be liable for a false claim under this part as a respondent instead of a defendant. The Board's definitions will also note that the terms "material" and "obligation" have the same meaning as in 31 U.S.C. 3729(b), and materiality is determined in the same manner as under that statute.

In § 355.3, the Board clarifies that liability attaches to any person that makes, presents, or submits or causes to be made, presented, or submitted a claim, and with respect to benefits under the Railroad Retirement Act, who has actual knowledge that the claim is false, fictitious, or

fraudulent, acts in deliberate indifference of the claim's truth or falsity, or acts in reckless disregard of the truth or falsity of the claim.

In § 355.6, the Board is revising the maximum amount of a claim that may be submitted to a presiding officer and providing that the amount shall be adjusted annually for inflation.

Section 355.10 is being removed and reserved because this section will be superseded by the rules of the presiding officer's board of contract appeals.

Section 355.11 is being revised to reflect the process for referring a request for hearing to a board of contract appeals for assignment of a presiding officer and the use of the rules and procedures promulgated by the board of contract appeals.

Sections 355.12 through 355.19 are being removed and reserved because these procedures will be superseded by the rules of the presiding officer's board of contract appeals.

Sections 355.21 through 355.39 are being removed and reserved because these procedures will be superseded by the rules of the presiding officer's board of contract appeals.

Section 355.41 is being removed and reserved because this section will be superseded by the rules of the presiding officer's board of contract appeals.

Section 355.45 is being revised to reflect the agency's right to receive reimbursement for costs expended in the investigation and prosecution of an action from any collection under this part to its appropriations account, to remain available until expended, with any remaining amount being deposited as miscellaneous receipts in the Treasury of the United States.

Section 355.46 is being revised to reflect statutory requirements for compromise or settlement at each stage of the proceeding and remove provisions that are no longer supported by the statutory language.

Section 355.47 is being revised to include the second element of the statute of limitations, allowing complaints to be served not later than 6 years after the date on which the claim was made or 3 years after the date on which facts material to the action are known or reasonably should have been known by the agency head, whichever is later, but not more than 10 years after the date on which the claim was made.

This direct final rule is being issued without prior public notice or opportunity for public comments. The Board does not anticipate this rule will generate adverse comment, and the effective date of the rule is conditional on the non-receipt of adverse comments. Furthermore, the statutory timeline established by Congress to issue implementing regulations precludes the issuance of a notice of proposed rulemaking and public comment prior to the final rule. If the Board receives significant adverse comments prior to the effective date of this direct final rule, the Board will publish a timely notification in the **Federal Register** to withdraw the rule.

## **Regulatory Analysis**

### *Executive Order 12866, as Supplemented by Executive Order 13563*

The Board, with the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, no regulatory impact analysis is required.

### *Regulatory Flexibility Act*

The Board certifies that this direct final rule would not have a significant economic impact on a substantial number of small entities because it affects only individuals.

*Paperwork Reduction Act*

This direct final rule imposes no reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

**List of Subjects in 20 CFR Part 355**

Administrative practice and procedure, Claims, Fraud, Penalties.

For the reasons set out in the preamble, the Railroad Retirement Board amends title 20, chapter II, subchapter E, of the Code of Federal Regulations by revising and republishing part 355 to read as follows:

**PART 355—REGULATIONS UNDER THE ADMINISTRATIVE FALSE CLAIMS ACT**

Sec.

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355.46 Compromise or settlement.

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**Authority:** 31 U.S.C. 3809; sec. 5203, Pub. L. 118-159, 138 Stat. 1773.

**§ 355.1 Basis and purpose.**

(a) *Basis.* This part implements the Administrative False Claims Act, codified at 31 U.S.C. 3801-3812. The statute at 31 U.S.C. 3809 requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part—

(1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents; and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such claims and statements.

**§ 355.2 Definitions.**

*Authority* means Railroad Retirement Board.

*Authority head* means the three-member Railroad Retirement Board.

*Claim* means any request, demand, or submission—

(1) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(i) For property or services if the United States—

(A) Provided such property or services;

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services;

or

(ii) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to the authority which has the effect of concealing or improperly avoiding or decreasing an obligation to pay or transmit property, services, or money to the authority.

*Complaint* means the written notice of allegations of liability referred to a presiding officer and served by the reviewing official on the respondent under § 355.7.

*Government* means the U.S. Government.

*Investigating official* means the Inspector General of the authority or an officer or employee of the Office of the Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than 120 percent of the minimum rate of basic pay for grade GS-15 under the General Schedule.

*Knows or has reason to know* means that a person, with respect to a claim or statement—

(1) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(2) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(3) Acts in reckless disregard of the truth or falsity of the claim or statement.

*Material* has the meaning given to the term under 31 U.S.C. 3729(b) and materiality shall be determined in the same manner as under that statute.

*Obligation* has the meaning given to the term under 31 U.S.C. 3729(b).

*Person* means any individual, partnership, corporation, association, or private organization.

*Presiding officer* means a member of a Board of Contract Appeals established by 41 U.S.C. 7105.

*Respondent* means any person alleged in a complaint under § 355.7 to be liable for a civil penalty or assessment under § 355.3.

*Reviewing official* means the General Counsel of the authority or his or her designee who is—

- (1) Not subject to supervision by, or required to report to, the investigating official; and
- (2) Not employed in the organizational unit of the authority in which the investigating official is employed; and
- (3) Is serving in a position for which the rate of basic pay is not less than 120 percent of the minimum rate of basic pay for grade GS-15 under the General Schedule.

*Statement* means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

- (1) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or
- (2) With respect to (including relating to eligibility for)—
  - (i) A contract with, or a bid or proposal for a contract with; or
  - (ii) A grant, loan, or benefit from the authority, or any state, political subdivision of a state, or other party, if the U.S. Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such state,

political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

**§ 355.3 Basis for civil penalties and assessments.**

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes, presents, or submits or causes to be made, presented, or submitted, a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each such claim. This penalty is subject to adjustment in accord with part 356 of this chapter.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any state or political subdivision thereof, acting for or on behalf of such authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1). Such assessment shall be in lieu of damages sustained by the Government because of such claim. However, such assessment shall not be in lieu of any recovery of erroneous payments as authorized by section 10 of the Railroad Retirement Act or section 2(d) of the Railroad Unemployment Insurance Act.

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each such statement. This penalty is subject to adjustment in accord with part 356 of this chapter.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any state or political subdivision thereof, acting for or behalf of such authority.

(c) *Claims and statements relating to benefits under the Railroad Retirement Act.* (1) In the case of any claim or statement made by any individual relating to any of the benefits listed in paragraph (c)(2) of this section received by such individual, such individual may be held liable

for penalties and assessments under this section only if such claim or statement is made by such individual in making application for such benefits with respect to such individual's eligibility to receive such benefits, and with respect to such claim or statement, the individual—

- (i) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;
- (ii) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or
- (iii) Acts in reckless disregard of the truth or falsity of the claim or statement.

(2) For purposes of this paragraph (c), the term “benefits” means any annuity or other benefit under the Railroad Retirement Act of 1974 which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

(d) *Intent to defraud.* No proof of specific intent to defraud is required to establish liability under this section.

(e) *Liability of multiple persons.* In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.

(f) *Joint and several liability when payment has been made.* In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

#### **§ 355.4 Investigation.**

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued and shall identify the records or documents sought;

(2) He or she may designate a person to act on his behalf to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available and the reasons therefor, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under this part may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to preclude or limit such official's discretion to defer or postpone a report or referral to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

#### **§ 355.5 Review by the reviewing official.**

(a) If, based on the report of the investigating official under § 355.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 355.3, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 355.7.

(b) Such notice shall include—

- (1) A statement of the reviewing official's reasons for issuing a complaint;
- (2) A statement specifying the evidence that supports the allegations of liability;
- (3) A description of the claims or statements upon which the allegations of liability are based;
- (4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 355.3;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known or an absence of any information indicating that the person may be unable to pay such an amount.

#### **§ 355.6 Prerequisites for issuing a complaint.**

(a) The reviewing official may issue a complaint under § 355.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1); and

(2) In the case of allegations of liability under § 355.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 355.3(a) does not exceed \$1,000,000. This maximum amount shall be adjusted for inflation in the same manner and to the same extent as civil monetary penalties under the Federal Civil Penalties Inflation Adjustment Act. Notice of the maximum amount under this section for calendar years after 2025 will be published by the authority in the **Federal Register** on an annual basis on or before January 15 of each calendar year.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (e.g., grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person, claims that are unrelated or were not submitted simultaneously, regardless of the amount of money or the value of property or services demanded or requested.

#### **§ 355.7 Complaint.**

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the respondent, as provided in § 355.8.

(b) The complaint shall state—

(1) The allegations of liability against the respondent, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the respondent may be held liable;

(3) Instructions for filing a request for a hearing, including a specific statement of the respondent's right to request a hearing; and

(4) That failure to file and answer within 30 days of service of the complaint may result in the imposition of the maximum amount of penalties and assessments without right to appeal.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the respondent with a copy of this part.

#### **§ 355.8 Service of complaint.**

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual making service;

(2) An acknowledged U.S. Postal Service return receipt card; or

(3) Written acknowledgment of the respondent.

#### **§ 355.9 Requesting a hearing.**

(a) The respondent may request a hearing by filing the request with the reviewing official within 30 days of service of the complaint.

(b) In the request, the respondent—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the respondent intends to rely;

(3) May state any reasons why the respondent contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of any person authorized by the respondent to act as the respondent's representative.

(c) Any other response or document filed with the reviewing official within 30 days of the service of the complaint which does not meet the criteria in paragraph (b) of this section may still be deemed to be a request for hearing, if the reviewing official determines the document demonstrates a clear intent to request a hearing.

#### **§ 355.10 [Reserved]**

#### **§ 355.11 Referral of request for hearing to the presiding officer.**

(a) No earlier than 30 days after service of the complaint, the reviewing official shall file the complaint and any answer or request for a hearing filed by the respondent with the presiding officer by submitting a copy of the complaint and any answer or request for hearing filed by the respondent with the Civilian Board of Contract Appeals.

(b) If the Chair of the Civilian Board of Contract Appeals declines the referral of the complaint described in paragraph (a) of this section, the reviewing official may submit the complaint and any answer or request for hearing to any other board of contract appeals.

(c) Simultaneously with the submission of a referral under paragraph (a) or (b) of this section, the reviewing official shall serve the respondent with a notice in the manner prescribed by § 355.8 that the referral has been made to an agency board of contract appeals with an explanation as to where the respondent may obtain the relevant rules of procedure promulgated by the board of contract appeals.

(d) Upon acceptance of the referral, the presiding officer shall conduct the hearing according to the rules and procedures promulgated by the board of contract appeals for cases under the Administrative False Claims Act.

**§§ 355.12-355.19 [Reserved]**

**§ 355.20 Disclosure of documents.**

(a) Upon written request to the reviewing official, the respondent is entitled to review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 355.4(b) are based unless such documents are subject to a privilege under Federal law. Upon payment of reasonable fees for duplication, the respondent may obtain copies of such documents.

(b) Upon written request to the reviewing official, the respondent is also entitled to a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 355.5 is not discoverable under any circumstances.

**§§ 355.21-355.39 [Reserved]**

**§ 355.40 Stays ordered by the Department of Justice.**

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

#### **§ 355.41 [Reserved]**

#### **§ 355.42 Judicial review.**

The statute at 31 U.S.C. 3805 authorizes judicial review by an appropriate U.S. District Court of a final decision of the presiding officer imposing penalties or assessments under this part and specifies the procedures for such review.

#### **§ 355.43 Collection of civil penalties and assessments.**

The statutes at 31 U.S.C. 3806 and 3808(b) authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

#### **§ 355.44 Right to administrative offset.**

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 355.42 or § 355.43, or any amount agreed upon in a compromise or settlement under § 355.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this section against a refund of an overpayment of Federal taxes, then or later owing by the United States to the respondent.

#### **§ 355.45 Deposit in Treasury of United States.**

All amounts collected pursuant to this part shall be credited first to reimburse the authority or other Federal entity that expended costs in support of the investigation or prosecution of the action, including any court or hearing costs. Such reimbursements shall be deposited in the appropriations account of the authority or other Federal entity from which the costs were obligated, a similar appropriations account of the authority or other Federal entity, or another appropriate account if the authority or other Federal entity expended nonappropriated funds, and shall remain available until expended. Any amount remaining after such reimbursements are credited shall be deposited as miscellaneous receipts in the Treasury of the United States.

#### **§ 355.46 Compromise or settlement.**

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official shall notify the Attorney General in writing no later than 30 days before entering into any agreement to compromise or settle allegations of liability under this part and before the date on which the reviewing official is permitted to issue a complaint.

(c) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the presiding officer issues a decision.

(d) The Attorney General has exclusive authority to compromise or settle any penalty or assessment under this part during the pendency of any review under § 355.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) Any compromise or settlement must be in writing.

**§ 355.47 Limitations.**

The complaint with respect to a claim or statement must be served in the manner specified in § 355.8 not later than the later of –

(a) 6 years after the date on which such claim or statement is made; or

(b) 3 years after the date on which facts material to the action are known or reasonably should have been known by the authority head, but in no event more than 10 years after the date on which the claim or statement was made.

Dated: June 11, 2025.

By Authority of the Board.

**Stephanie Hillyard,**

*Secretary to the Board.*

