

tion of the Director to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise has been given an opportunity for a hearing on the record pursuant to section 4582 of this title; and

(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

**(2) Factors in determining amount of penalty**

In determining the amount of a penalty under this section, the Director shall give consideration to factors including—

- (A) the gravity of the offense;
- (B) any history of prior offenses;
- (C) ability to pay the penalty;
- (D) injury to the public;
- (E) benefits received;
- (F) deterrence of future violations;
- (G) the length of time that the enterprise should reasonably take to achieve the goal; and
- (H) such other factors as the Director may determine, by regulation, to be appropriate.

**(d) Action to collect penalty**

If an enterprise fails to comply with an order by the Director imposing a civil money penalty under this section, after the order is no longer subject to review, as provided in sections 4582 and 4583 of this title, the Director may bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise, and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order imposing the penalty shall not be subject to review.

**(e) Settlement by Director**

The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

**(f) Deposit of penalties**

The Director shall use any civil money penalties collected under this section to help fund the Housing Trust Fund established under section 4568 of this title.

(Pub. L. 102-550, title XIII, §1345, as added Pub. L. 110-289, div. A, title I, §1130(d)(2), July 30, 2008, 122 Stat. 2709.)

REFERENCES IN TEXT

Section 4547 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 110-289, div. A, title I, §1104(b), July 30, 2008, 122 Stat. 2667.

PRIOR PROVISIONS

A prior section 4585, Pub. L. 102-550, title XIII, §1345, Oct. 28, 1992, 106 Stat. 3966, related to civil money penalties, prior to repeal by Pub. L. 110-289, div. A, title I, §1130(d)(1), July 30, 2008, 122 Stat. 2709.

**§ 4586. Public disclosure of final orders and agreements**

**(a) In general**

The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Secretary's<sup>1</sup> discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under this subpart and that has become final in accordance with sections 4582 and 4583 of this title; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

**(b) Hearings**

All hearings with respect to any notice of charges issued by the Director shall be open to the public, unless the Director, in the Secretary's<sup>1</sup> discretion, determines that holding an open hearing would be contrary to the public interest.

**(c) Delay of public disclosure under exceptional circumstances**

If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial soundness of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

**(d) Documents filed under seal in public enforcement hearings**

The Director may file any document or part thereof under seal in any hearing under this subpart if the Director determines in writing that disclosure thereof would be contrary to the public interest.

**(e) Retention of documents**

The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under this subpart.

**(f) Disclosures to Congress**

This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

(Pub. L. 102-550, title XIII, §1346, Oct. 28, 1992, 106 Stat. 3968; Pub. L. 110-289, div. A, title I, §1130(e)(3)(C), July 30, 2008, 122 Stat. 2711.)

AMENDMENTS

2008—Subsecs. (a) to (e). Pub. L. 110-289 substituted “Director” for “Secretary” wherever appearing.

**§ 4587. Notice of service**

Any service required or authorized to be made by the Director under this subpart may be made

<sup>1</sup> So in original. Probably should be “Director’s”.