

**§ 2634.702**

**5 CFR Ch. XVI (1–1–24 Edition)**

(c) *Criminal action.* An individual may also be prosecuted under criminal statutes for supplying false information on any financial disclosure report.

(d) *Administrative remedies.* The President, the Vice President, the Director of the Office of Government Ethics, the Secretary concerned, the head of each agency, and the Office of Personnel Management may take appropriate personnel or other action in accordance with applicable law or regulation against any individual for failing to file public or confidential reports required by this part, for filing such reports late, or for falsifying or failing to report required information. This may include adverse action under 5 CFR part 752, if applicable.

[83 FR 33981, July 18, 2018, as amended at 84 FR 6054, Feb. 26, 2019; 85 FR 2280, Jan. 15, 2020; 86 FR 7636, Feb. 1, 2021; 87 FR 2524, Jan. 18, 2022; 88 FR 1140, Jan. 9, 2023]

**§ 2634.702 Breaches by trust fiduciaries and interested parties.**

(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of § 2634.408(d)(1) or (e)(1). The court in which the action is brought may assess against the individual a civil monetary penalty in any amount, not to exceed the amounts set forth in Table 1 to this section, as provided by section 102(f)(6)(C)(i) of the Act and as adjusted in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

TABLE 1 TO § 2634.702

| Date of violation   | Penalty  |
|---|----------|
| Violation occurring between Sept. 29, 1999 and Nov. 2, 2015 ..... | \$11,000 |
| Violation occurring after Nov. 2, 2015 .....                      | 23,727   |

(b) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of § 2634.408(d)(1) or (e)(1). The court in which the action is brought may assess against the individual a civil monetary penalty in any

amount, not to exceed the amounts set forth in Table 2 to this section, as provided by section 102(f)(6)(C)(ii) of the Act and as adjusted in accordance with the inflation adjustment procedures of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

TABLE 2 TO § 2634.702

| Date of violation   | Penalty |
|---|---------|
| Violation occurring between Sept. 29, 1999 and Nov. 2, 2015 ..... | \$5,500 |
| Violation occurring after Nov. 2, 2015 .....                      | 11,864  |

[88 FR 1140, Jan. 9, 2023]

[87 FR 2524, Jan. 18, 2022]

**§ 2634.703 Misuse of public reports.**

(a) The Attorney General may bring a civil action against any person who obtains or uses a report filed under this part for any purpose prohibited by section 105(c)(1) of the Act, as incorporated in § 2634.603(f). The court in

which the action is brought may assess against the person a civil monetary penalty in any amount, not to exceed the amounts set forth in Table 1 to this section, as provided by section 105(c)(2) of the Act and as adjusted in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

TABLE 1 TO § 2634.703

| Date of violation   | Penalty  |
|---|----------|
| Violation occurring between Sept. 29, 1999 and Nov. 2, 2015 ..... | \$11,000 |
| Violation occurring after Nov. 2, 2015 .....                      | 23,727   |

(b) This remedy shall be in addition to any other remedy available under statutory or common law.

[88 FR 1141, Jan. 9, 2023]

#### § 2634.704 Late filing fee.

(a) *In general.* In accordance with section 104(d) of the Act, any reporting individual who is required to file a public financial disclosure report by the provisions of this part must remit a late filing fee of \$200 to the appropriate agency, payable to the U.S. Treasury, if such report is filed more than 30 days after the later of:

(1) The date such report is required to be filed pursuant to the provisions of this part; or

(2) The last day of any filing extension period granted pursuant to § 2634.201(g).

(b) *Exceptions.* (1) The designated agency ethics official may waive the late filing fee if the designated agency ethics official determines that the delay in filing was caused by extraordinary circumstances. These circumstances include, but are not limited to, the agency's failure to notify a filer of the requirement to file the public financial disclosure report, which made the delay reasonably necessary.

(2) Employees requesting a waiver of the late filing fee from the designated agency ethics official must request the waiver in writing. The designated agency ethics official's determination must be made in writing to the employee with a copy maintained by the agency. The designated agency ethics official may consult with the Office of Government Ethics prior to approving any waiver of the late filing fee.

(c) *Procedure.* (1) Each report received by the agency must be marked with the date of receipt. For any report which has not been received by the end of the period specified in paragraph (a) of this section, the agency will advise the delinquent filer, in writing, that:

(i) Because the financial disclosure report is more than 30 days overdue, a \$200 late filing fee will become due at the time of filing, by reason of section 104(d) of the Act and § 2634.704;

(ii) The filer is directed to remit to the agency, with the completed report, the \$200 fee, payable to the United States Treasury;

(iii) If the filer fails to remit the \$200 fee when filing a late report, it will be subject to agency debt collection procedures; and

(iv) If extraordinary circumstances exist that would justify a request for a fee waiver, pursuant to paragraph (b) of this section, such request and any supporting documentation must be submitted immediately.

(2) Upon receipt from the reporting individual of the \$200 late filing fee, the collecting agency will note the payment in its records, and will then forward the money to the U.S. Treasury for deposit as miscellaneous receipts, in accordance with 31 U.S.C. 3302 and Part 5 of Volume 1 of the Treasury Financial Manual. If payment is not forthcoming, agency debt collection procedures may be utilized, which may include salary or administrative offset, initiation of a tax refund offset, or other authorized action.

(d) *Late filing fee not exclusive remedy.* The late filing fee is in addition to other sanctions which may be imposed for late filing. See § 2634.701.

(e) *Confidential filers.* The late filing fee does not apply to confidential filers. Late filing of confidential reports will be handled administratively under § 2634.701(d).

(f) *Date of filing.* The date of filing for purposes of determining whether a public financial disclosure report is filed more than 30 days late under this section will be the date of receipt by the agency, which should be noted on the report in accordance with § 2634.605(a). The 30-day grace period on imposing a late filing fee is adequate allowance for