

§ 111.80 [Reserved]**§ 111.81 Settlement and compromise.**

The Assistant Commissioner, with the approval of the Secretary of Homeland Security, or his designee, may settle and compromise any disciplinary proceeding which has been instituted under this subpart according to the terms and conditions agreed to by the parties including, but not limited to, the assessment of a monetary penalty in lieu of any proposed suspension or revocation of a broker's license or permit.

Subpart E—Monetary Penalty and Payment of Fees**§ 111.91 Grounds for imposition of a monetary penalty; maximum penalty.**

Customs may assess a monetary penalty or penalties as follows:

(a) In the case of a broker, in an amount not to exceed an aggregate of \$30,000 for one or more of the reasons set forth in §§ 111.53 (a) through (f) other than those listed in § 111.53(b)(3), and provided that no license or permit suspension or revocation proceeding has been instituted against the broker under subpart D of this part for any of the same reasons; or

(b) In the case of a person who is not a broker, in an amount not to exceed \$10,000 for each transaction or violation referred to in § 111.4 and in an amount not to exceed an aggregate of \$30,000 for all those transactions or violations.

§ 111.92 Notice of monetary penalty.

(a) *Pre-penalty notice.* If assessment of a monetary penalty under § 111.91 is contemplated, Customs will issue a written notice which advises the broker or other person of the allegations or complaints against him and explains that the broker or other person has a right to respond to the allegations or complaints in writing within 30 days of the date of mailing of the notice. The Fines, Penalties, and Forfeitures Officer has discretion to provide additional time for good cause.

(b) *Penalty notice.* If the broker or other person files a timely response to the written notice of the allegations or complaints, the Fines, Penalties, and

Forfeiture Officer will review this response and will either cancel the case, issue a notice of penalty in an amount which is lower than that provided for in the written notice of allegations or complaints or issue a notice of penalty in the same amount as that provided in the written notice of allegations or complaints. If no response is received from the broker or other person, the Fines, Penalties, and Forfeitures Officer will issue a notice of penalty in the same amount as that provided in the written notice of allegations or complaints.

[T.D. 00-57, 65 FR 53575, Sept. 5, 2000]

§ 111.93 Petition for relief from monetary penalty.

A broker or other person who receives a notice issued under § 111.92(b) may file a petition for relief from the monetary penalty in accordance with the procedures set forth in part 171 of this chapter.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by T.D. 00-57, 65 FR 53575, Sept. 5, 2000]

§ 111.94 Decision on monetary penalty.

Customs will follow the procedures set forth in part 171 of this chapter in considering any petition for relief filed under § 111.93. After Customs has considered the allegations or complaints set forth in the notice issued under § 111.92 and any timely response made to the notice by the broker or other person, the Fines, Penalties, and Forfeitures Officer will issue a written decision to the broker or other person setting forth the final determination and the findings of fact and conclusions of law on which the determination is based. If the final determination is that the broker or other person is liable for a monetary penalty, the broker or other person must pay the monetary penalty, or make arrangements for payment of the monetary penalty, within 60 calendar days of the date of the written decision. If payment or arrangements for payment are not timely made, Customs will refer the matter to the Department of Justice for institution of appropriate judicial proceedings.