

Rules and Regulations

Federal Register

Vol. 87, No. 8

Wednesday, January 12, 2022

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 19 and 109

Notification of Inflation Adjustments for Civil Money Penalties

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notification of monetary penalties 2022.

SUMMARY: This document announces changes to the Office of the Comptroller of the Currency's (OCC) maximum civil money penalties as adjusted for inflation. The inflation adjustments are required to implement the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: The adjusted maximum amount of civil money penalties in this document are applicable to penalties assessed on or after January 12, 2022 for conduct occurring on or after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Lee Walzer, Counsel, Chief Counsel's Office, (202) 649-5490, Office of the Comptroller of the Currency.

SUPPLEMENTARY INFORMATION: This document announces changes to the maximum amount of each civil money penalty (CMP) within the OCC's jurisdiction to administer to account for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Adjustment Act),¹ as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Adjustment Act).² Under the 1990 Adjustment Act, as amended, federal agencies must make annual adjustments to the maximum amount of each CMP they administer. The Office of Management and Budget (OMB) is required to issue guidance to federal agencies no later than December 15 of each year providing an inflation adjustment multiplier (*i.e.*, the inflation adjustment factor agencies must use) applicable to CMPs assessed in the following year. The agencies are required to publish their CMPs, adjusted pursuant to the multiplier provided by

the OMB, by January 15 of the applicable year.

To the extent an agency codified a CMP amount in its regulations, the agency would need to update that amount by regulation. However, if an agency codified a formula for making the CMP adjustments, then subsequent adjustments can be made solely by notice.³ In 2018, the OCC published a final regulation that removed the CMP amounts from its regulations while updating the CMP amounts for inflation through the notice process.⁴

On December 15, 2021, the OMB issued guidance to affected agencies on implementing the required annual adjustment, which included the relevant inflation multiplier.⁵ The OCC has applied that multiplier to the maximum CMPs allowable in 2021 for national banks and Federal savings associations as listed in the 2021 CMP notice⁶ to calculate the maximum amount of CMPs that may be assessed by the OCC in 2022.⁷ There were no new statutory CMPs administered by the OCC during 2021.

The following charts provide the inflation-adjusted CMPs for use beginning on January 12, 2022, pursuant to 12 CFR 19.240(b) and 109.103(c)(2) for conduct occurring on or after November 2, 2015:

PENALTIES APPLICABLE TO NATIONAL BANKS

U.S. code citation	Description and tier (if applicable)	Maximum penalty amount (in dollars) ¹
12 U.S.C. 93(b)	Violation of Various Provisions of the National Bank Act:	
	Tier 1	11,011
	Tier 2	55,052
	Tier 3	² 2,202,123
12 U.S.C. 164	Violation of Reporting Requirements:	
	Tier 1	4,404
	Tier 2	44,043
	Tier 3	² 2,202,123
12 U.S.C. 481	Refusal of Affiliate to Cooperate in Examination	11,011
12 U.S.C. 504	Violation of Various Provisions of the Federal Reserve Act:	
	Tier 1	11,011
	Tier 2	55,052
	Tier 3	² 2,202,123

¹ Public Law 101-410, Oct. 5, 1990, 104 Stat. 890, codified at 28 U.S.C. 2461 note.

² Public Law 114-74, Title VII, section 701(b), Nov. 2, 2015, 129 Stat. 599, codified at 28 U.S.C. 2461 note.

³ See OMB Memorandum M-18-03, Implementation of the 2018 Annual Adjustment Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, at 4,

which permits agencies that have codified the formula to adjust CMPs for inflation to update the penalties through a notice rather than a regulation.

⁴ 83 FR 1517 (Jan. 12, 2018) (final rule); 83 FR 1657 (Jan. 12, 2018) (2018 CMP Notice).

⁵ The inflation adjustment multiplier for 2022 is 1.06222. See OMB Memorandum M-22-07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties

Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2021).

⁶ See 85 FR 86795 (Dec. 31, 2020).

⁷ Penalties assessed for violations occurring prior to November 2, 2015, will be subject to the maximum amounts set forth in the OCC's regulations in effect prior to the enactment of the 2015 Adjustment Act.

PENALTIES APPLICABLE TO NATIONAL BANKS—Continued

U.S. code citation	Description and tier (if applicable)	Maximum penalty amount (in dollars) ¹
12 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act:	
	Tier 1	11,011
	Tier 2	55,052
	Tier 3	² 2,202,123
12 U.S.C. 1818(i)(2) ³ ...	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty:	
	Tier 1	11,011
	Tier 2	55,052
	Tier 3	² 2,202,123
12 U.S.C. 1820(k)(6)(A)(ii).	Violation of Post-Employment Restrictions:	
	Per violation	362,217
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instrument for Transfers to Third Parties:	
	Per violation	3,198
12 U.S.C. 1884	Violation of the Bank Protection Act	320
12 U.S.C. 1972(2)(F)	Violation of Anti-Tying Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty:	
	Tier 1	11,011
	Tier 2	55,052
	Tier 3	² 2,202,123
12 U.S.C. 3110(a)	Violation of Various Provisions of the International Banking Act (Federal Branches and Agencies)	50,326
12 U.S.C. 3110(c)	Violation of Reporting Requirements of the International Banking Act (Federal Branches and Agen- cies):	
	Tier 1	4,027
	Tier 2	40,259
	Tier 3	² 2,013,008
12 U.S.C. 3909(d)(1)	Violation of International Lending Supervision Act	2,739
15 U.S.C. 78u-2(b)	Violation of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act:	
	Tier 1 (natural person)—Per violation	10,360
	Tier 1 (other person)—Per violation	103,591
	Tier 2 (natural person)—Per violation	103,591
	Tier 2 (other person)—Per violation	517,955
	Tier 3 (natural person)—Per violation	207,183
	Tier 3 (other person)—Per violation	1,035,909
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements:	
	First violation	12,647
	Subsequent violations	25,293
42 U.S.C. 4012a(f)(5)	Flood Insurance:	
	Per violation	2,392

¹ The maximum penalty amount is per day, unless otherwise indicated.

² The maximum penalty amount for a national bank is the lesser of this amount or 1 percent of total assets.

³ These amounts also apply to CMPs in statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1693o, 1681s, 1691c, and 1692l.

PENALTIES APPLICABLE TO FEDERAL SAVINGS ASSOCIATIONS

U.S. code citation	CMP description	Maximum penalty amount (in dollars) ⁸
12 U.S.C. 1464(v)	Reports of Condition:	
	1st Tier	4,404
	2nd Tier	44,043
	3rd Tier	² 2,202,123
12 U.S.C. 1467(d)	Refusal of Affiliate to Cooperate in Examination	11,011
12 U.S.C. 1467a(r)	Late/Inaccurate Reports:	
	1st Tier	4,404
	2nd Tier	44,043
	3rd Tier	² 2,202,123
12 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act:	
	1st Tier	11,011
	2nd Tier	55,052
	3rd Tier	² 2,202,123
12 U.S.C. 1818(i)(2) ³ ...	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty:	
	1st Tier	11,011
	2nd Tier	55,052
	3rd Tier	² 2,202,123

PENALTIES APPLICABLE TO FEDERAL SAVINGS ASSOCIATIONS—Continued

U.S. code citation	CMP description	Maximum penalty amount (in dollars) ⁸
12 U.S.C. 1820(k)(6)(A)(ii).	Violation of Post-Employment Restrictions: Per violation	362,217
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instruments for Transfers to Third Parties: Per violation	2,907
12 U.S.C. 1884	Violation of the Bank Protection Act	320
12 U.S.C. 1972(2)(F)	Violation of Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty: Tier 1	11,011
	Tier 2	55,052
	Tier 3	² 2,202,123
15 U.S.C. 78u–2(b)	Violations of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act: 1st Tier (natural person)—Per violation	10,360
	1st Tier (other person)—Per violation	103,591
	2nd Tier (natural person)—Per violation	103,591
	2nd Tier (other person)—Per violation	517,955
	3rd Tier (natural person)—Per violation	207,183
	3rd Tier (other person)—Per violation	1,035,909
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements: First violation	12,647
	Subsequent violations	25,293
42 U.S.C. 4012a(f)(5)	Flood Insurance: Per violation	2,392

⁸ The maximum penalty amount is per day, unless otherwise indicated.

² The maximum penalty amount for a federal savings association is the lesser of this amount or 1 percent of total assets.

³ These amounts also apply to statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1681s, 1691c, and 1692l.

Benjamin W. McDonough,

Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–00109 Filed 1–11–22; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1209, 1217, and 1250

RIN 2590–AA43

Rules of Practice and Procedure; Civil Money Penalty Inflation Adjustment

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is adopting this final rule amending its Rules of Practice and Procedure and other agency regulations to adjust each civil money penalty within its jurisdiction to account for inflation, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: *Effective* January 12, 2022, and applicable beginning January 15, 2022.

FOR FURTHER INFORMATION CONTACT:

Frank R. Wright, Assistant General Counsel, at (202) 649–3087, Frank.Wright@fhfa.gov (not a toll-free number); Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Background

FHFA is an independent agency of the Federal government, and the financial safety and soundness regulator of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises), as well as the Federal Home Loan Banks (collectively, the Banks) and the Office of Finance under authority granted by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act).¹ FHFA oversees the Enterprises and Banks (collectively, the regulated entities) and the Office of Finance to ensure that they operate in a safe and sound manner and maintain liquidity in the housing finance market in

accordance with applicable laws, rules and regulations. To that end, FHFA is vested with broad supervisory discretion and specific civil administrative enforcement powers, similar to such authority granted by Congress to the Federal bank regulatory agencies.² Section 1376 of the Safety and Soundness Act (12 U.S.C. 4636) empowers FHFA to impose civil money penalties under specific conditions. FHFA's Rules of Practice and Procedure (12 CFR part 1209) (the Enforcement regulations) govern cease and desist proceedings, civil money penalty assessment proceedings, and other administrative adjudications.³ FHFA's Flood Insurance regulation (12 CFR part 1250) governs flood insurance responsibilities as they pertain to the Enterprises.⁴ FHFA's Implementation of the Program Fraud Civil Remedies Act of 1986 regulation (12 CFR part 1217) sets forth procedures for imposing civil penalties and assessments under the Program Fraud Civil Remedies Act (31 U.S.C. 3801 *et seq.*) on any person that makes a false claim for property, services or money from FHFA, or makes a false material statement to FHFA in connection with a claim, where the

² *Id.*

³ See 12 CFR part 1209.

⁴ See 12 CFR part 1250.

¹ See Safety and Soundness Act, 12 U.S.C. 4513 and 4631–4641.