Rules and Regulations

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DEPARTMENT OF HOMELAND SECURITY

RIN 1615–AC42

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1235

[EOIR Docket No. 18–0102; A.G. Order No. 4922–2020]

RIN 1125–AA94

Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review

AGENCY: Department of Homeland Security; Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule; correction.

SUMMARY: The Department of Justice is correcting a final rule that appeared in the **Federal Register** on December 11, 2020. That document amended Department of Homeland Security and Department of Justice ("the Departments") regulations governing credible fear determinations. Individuals found to have a credible fear will have their claims for asylum, withholding of removal under Immigration and Nationality or protection under the regulations issued pursuant to the legislation implementing the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, adjudicated by an immigration judge within the Executive Office for Immigration Review in streamlined proceedings (rather than under section 240 of the Act). The final rule also specifid what standard of review applies in such streamlined proceedings.

DATES: Effective on January 11, 2021.

FOR FURTHER INFORMATION CONTACT: Lauren Alder Reid, Assistant Director,

Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Falls Church, VA 22041, telephone (703) 305–0289 (not a toll-free call).

SUPPLEMENTARY INFORMATION: In FR Rule Doc. 2020–26875, appearing on page 80400 in the **Federal Register** of Friday, December 11, 2020, the following correction is made:

§ 1235.6 [Corrected]

■ 1. On page 80400, in the third column, in part 1235, in amendatory instruction 38c is corrected to read "Revising paragraphs (a)(2)(i) and (iii); and".

Dated: January 7, 2021.

Rosemary Hart,
Special Counsel and Liaison to the Federal Register.

[FR Doc. 2021–00409 Filed 1–8–21; 8:45 am]

BILLING CODE 4410–30–P

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[NOTICE 2020–08]

Civil Monetary Penalties Annual Inflation Adjustments

AGENCY: Federal Election Commission.
ACTION: Final rule.

SUMMARY: As required by the Federal Civil Penalties Inflation Adjustment Act of 1990, the Federal Election Commission is adjusting for inflation the civil monetary penalties established under the Federal Election Campaign Act, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. The civil monetary penalties being adjusted are those negotiated by the Commission or imposed by a court for certain statutory violations, and those imposed by the Commission for late filing of, or failure to file, certain reports required by the Federal Election Campaign Act. The adjusted civil monetary penalties are calculated according to a statutory formula and the adjusted amounts will apply to penalties assessed after the effective date of these rules.

DATES: The final rules are effective on January 11, 2021.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, Mr. Joseph P. Wenzinger, Attorney, or Ms. Terrell D. Stansbury,

Paralegal, Office of General Counsel, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990 (the "Inflation Adjustment Act"),[1] as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the "2015 Act"),[2] requires Federal agencies, including the Commission, to adjust for inflation the civil monetary penalties within their jurisdiction according to prescribed formulas. A civil monetary penalty is "any penalty, fine, or other sanction" that (1) "is for a specific monetary amount" or "has a maximum amount" under Federal law; and (2) that a Federal agency assesses or enforces "pursuant to an administrative proceeding or a civil action" in Federal court.[3] Under the Federal Election Campaign Act, 52 U.S.C. 30101–45 ("FECA"), the Commission may seek and assess civil monetary penalties for violations of FECA, the Presidential Election Campaign Fund Act, 26 U.S.C. 9001–13, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031–42.

The Inflation Adjustment Act requires Federal agencies to adjust their civil penalties annually, and the adjustments must take effect no later than January 15 of every year.[4] Pursuant to guidance issued by the Office of Management and Budget,[5] the Commission is now adjusting its civil monetary penalties for 2021.[6]

The Commission must adjust for inflation its civil monetary penalties "notwithstanding Section 553" of the Administrative Procedure Act ("APA").[7] Thus, the APA's notice-and-comment and delayed effective date requirements in 5 U.S.C. 553(b)–(d) do

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[1] Public Law 101–410, 104 Stat. 890 (codified at 28 U.S.C. 2461 note), *amended by* Debt Collection Improvement Act of 1996, Public Law 104–134, sec. 31001(s)(1), 110 Stat. 1321, 1321–373; Federal Reports Elimination Act of 1998, Public Law 105–362, sec. 1301, 112 Stat. 3280.

[2] Public Law 114–74, sec. 701, 129 Stat. 584, 599.

[3] Inflation Adjustment Act sec. 3(2).

[4] Inflation Adjustment Act sec. 4(a).

[5] *See* Inflation Adjustment Act sec. 7(a) (requiring OMB to "issue guidance to agencies on implementing the inflation adjustments required under this Act"); *see also* Memorandum from Russell T. Vought, Director, Office of Management and Budget, to Heads of Executive Departments and Agencies, M–21–10, Dec. 23, 2020, *https://www.whitehouse.gov/wp-content/uploads/2020/12/M-21-10.pdf* ("OMB Memorandum").

[6] Inflation Adjustment Act sec. 5.

[7] Inflation Adjustment Act sec. 4(b)(2).

not apply because Congress has specifically exempted agencies from these requirements.[8]

Furthermore, because the inflation adjustments made through these final rules are required by Congress and involve no Commission discretion or policy judgments, these rules do not need to be submitted to the Speaker of the United States House of Representatives or the President of the United States Senate under the Congressional Review Act, 5 U.S.C. 801 *et seq.* Moreover, because the APA's notice-and-comment procedures do not apply to these final rules, the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 or 604. *See* 5 U.S.C. 601(2), 604(a). Nor is the Commission required to submit these revisions for congressional review under FECA. *See* 5 U.S.C. 30111(d)(1), (4) (providing for congressional review when the Commission "prescribe[s]" a "rule of law").

The new penalty amounts will apply to civil monetary penalties that are assessed after the date the increase takes effect, even if the associated violation predated the increase.[9]

Explanation and Justification

The Inflation Adjustment Act requires the Commission to annually adjust its civil monetary penalties for inflation by applying a cost-of-living-adjustment ("COLA") ratio.[10] The COLA ratio is the percentage that the Consumer Price Index ("CPI")[11] "for the month of October preceding the date of the adjustment" exceeds the CPI for October of the previous year.[12] To calculate the adjusted penalty, the Commission must increase the most recent civil monetary penalty amount by the COLA ratio.[13] According to the Office of Management and Budget, the COLA ratio for 2021 is 0.01182, or 1.182%; thus, to calculate the new penalties, the Commission must multiply the most recent civil monetary penalties in force by 1.01182.[14]

The Commission assesses two types of civil monetary penalties that must be adjusted for inflation. First are penalties that are either negotiated by the Commission or imposed by a court for violations of FECA, the Presidential Election Campaign Fund Act, or the Presidential Primary Matching Payment Account Act. These civil monetary penalties are set forth at 11 CFR 111.24. Second are the civil monetary penalties

assessed through the Commission's Administrative Fines Program for late filing or non-filing of certain reports required by FECA. *See* 52 U.S.C. 30109(a)(4)(C) (authorizing Administrative Fines Program), and 30104(a) (requiring political committee treasurers to report receipts and disbursements within certain time periods). The penalty schedules for these civil monetary penalties are set out at 11 CFR 111.43 and 111.44.

1. 11 CFR 111.24—Civil Penalties

FECA establishes the civil monetary penalties for violations of FECA and the other statutes within the Commission's jurisdiction. *See* 52 U.S.C. 30109(a)(5), (6), (12). Commission regulations in 11 CFR 111.24 provide the current inflation-adjusted amount for each such civil monetary penalty. To calculate the adjusted civil monetary penalty, the Commission multiplies the most recent penalty amount by the COLA ratio and rounds that figure to the nearest dollar.

The actual adjustment to each civil monetary penalty is shown in the chart below.

Section	Most recent civil penalty	COLA	New civil penalty
11 CFR 111.24(a)(1)	$20,288	1.01182	$20,528
11 CFR 111.24(a)(2)(i)	43,280	1.01182	43,792
11 CFR 111.24(a)(2)(ii)	70,973	1.01182	71,812
11 CFR 111.24(b)	6,069	1.01182	6,141
11 CFR 111.24(b)	15,173	1.01182	15,352

2. 11 CFR 111.43, 111.44—Administrative Fines

FECA authorizes the Commission to assess civil monetary penalties for violations of the reporting requirements of 52 U.S.C. 30104(a) according to the penalty schedules "established and published by the Commission." 52 U.S.C. 30109(a)(4)(C)(i). The Commission has established two penalty schedules: The penalty schedule in 11 CFR 111.43(a) applies to reports that are not election sensitive, and the penalty schedule in 11 CFR 111.43(b) applies to reports that are election sensitive.[15] Each penalty schedule contains two columns of penalties, one for late-filed reports and one for non-filed reports, with penalties

based on the level of financial activity in the report and, if late-filed, its lateness.[16] In addition, 11 CFR 111.43(c) establishes a civil monetary penalty for situations in which a committee fails to file a report and the Commission cannot calculate the relevant level of activity. Finally, 11 CFR 111.44 establishes a civil monetary penalty for failure to file timely reports of contributions received less than 20 days, but more than 48 hours, before an election. *See* 52 U.S.C. 30104(a)(6).

To determine the adjusted civil monetary penalty amount for each level of activity, the Commission multiplies the most recent penalty amount by the COLA ratio and rounds that figure to the nearest dollar. The new civil monetary

penalties are shown in the schedules in the rule text, below.

List of Subjects in 11 CFR Part 111

Administrative practice and procedure, Elections, Law enforcement, Penalties.

For the reasons set out in the preamble, the Federal Election Commission amends subchapter A of chapter I of title 11 of the *Code of Federal Regulations* as follows:

PART 111—COMPLIANCE PROCEDURE (52 U.S.C. 30109, 30107(a))

■ 1. The authority citation for part 111 continues to read as follows:

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[8] *See, e.g., Asiana Airlines* v. *FAA,* 134 F.3d 393, 396–99 (D.C. Cir. 1998) (finding APA "notice and comment" requirement not applicable where Congress clearly expressed intent to depart from normal APA procedures).

[9] Inflation Adjustment Act sec. 6.

[10] The COLA ratio must be applied to the most recent civil monetary penalties. Inflation

Adjustment Act, sec. 4(a); *see also* OMB Memorandum at 2.

[11] The Inflation Adjustment Act, sec. 3, uses the CPI "for all-urban consumers published by the Department of Labor."

[12] Inflation Adjustment Act, sec. 5(b)(1).

[13] Inflation Adjustment Act, sec. 5(a), (b)(1).

[14] OMB Memorandum at 1.

[15] Election sensitive reports are certain reports due shortly before an election. *See* 11 CFR 111.43(d)(1).

[16] A report is considered to be "not filed" if it is never filed or is filed more than a certain number of days after its due date. *See* 11 CFR 111.43(e).

Authority: 52 U.S.C. 30102(i), 30109, 30107(a), 30111(a)(8); 28 U.S.C. 2461 note; 31 U.S.C. 3701, 3711, 3716–3719, and 3720A, as amended; 31 CFR parts 285 and 900–904.

§ 111.24 [Amended]

■ 2. Section 111.24 is amended in the table below by, for each section indicated in the left column, removing the number indicated in the middle column, and adding in its place the number indicated in the right column as follows:

Section	Remove	Add
111.24(a)(1)	$20,288	$20,528
111.24(a)(2)(i)	43,280	43,792
111.24(a)(2)(ii)	70,973	71,812
111.24(b)	6,069	6,141
111.24(b)	15,173	15,352

■ 3. Section 111.43 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 111.43 What are the schedules of penalties?

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and pre-election reports under 11 CFR 104.5, shall be calculated in accordance with the following schedule of penalties:

TABLE 1 TO PARAGRAPH (a)

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
$1–4,999.99 [1]	[$36 + ($6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$351 × [1 + (.25 × Number of previous violations)].
$5,000–9,999.99	[$70 + ($6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$422 × [1 + (.25 × Number of previous violations)]
$10,000–24,999.99	[$151 + ($6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$704 × [1 + (.25 × Number of previous violations)].
$25,000–49,999.99	[$298 + ($28 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$1267 × [1 + (.25 × Number of previous violations)].
$50,000–74,999.99	[$450 + ($113 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$4041 × [1 + (.25 × Number of previous violations)].
$75,000–99,999.99	[$598 + ($151 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$5237 × [1 + (.25 × Number of previous violations)].
$100,000–149,999.99	[$896 + ($187 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$6735 × [1 + (.25 × Number of previous violations)].
$150,000–199,999.99	[$1199 + ($224 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$8231 × [1 + (.25 × Number of previous violations)].
$200,000–249,999.99	[$1496 + ($261 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$9727 × [1 + (.25 × Number of previous violations)].
$250,000–349,999.99	[$2245 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$11,972 × [1 + (.25 × Number of previous violations)].
$350,000–449,999.99	[$2994 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$13,468 × [1 + (.25 × Number of previous violations)].
$450,000–549,999.99	[$3741 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$14,216 × [1 + (.25 × Number of previous violations)].
$550,000–649,999.99	[$4489 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$14,966 × [1 + (.25 × Number of previous violations)].
$650,000–749,999.99	[$5237 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$15,713 × [1 + (.25 × Number of previous violations)].
$750,000–849,999.99	[$5986 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$16,461 × [1 + (.25 × Number of previous violations)].
$850,000–949,999.99	[$6735 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$17,209 × [1 + (.25 × Number of previous violations)]
$950,000 or over	[$7482 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$17,958 × [1 + (.25 × Number of previous violations)].

[1] The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated in accordance with the following schedule of penalties:

TABLE 2 TO PARAGRAPH (b)

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
$1–$4,999.99 [1]	[$70 + ($13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$704 × [1 + (.25 × Number of previous violations)].

TABLE 2 TO PARAGRAPH (b)—Continued

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
$5,000–$9,999.99	[$141 + ($13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$844 × [1 + (.25 × Number of previous violations)].
$10,000–24,999.99	[$211 + ($13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$1267 × [1 + (.25 × Number of previous violations)].
$25,000–49,999.99	[$450 + ($36 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$1970 × [1 + (.25 × Number of previous violations)].
$50,000–74,999.99	[$674 + ($113 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$4489 × [1 + (.25 × Number of previous violations)].
$75,000–99,999.99	[$896 + ($151 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$5986 × [1 + (.25 × Number of previous violations)].
$100,000–149,999.99	[$1347 + ($187 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$7482 × [1 + (.25 × Number of previous violations)].
$150,000–199,999.99	[$1796 + ($224 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$8978 × [1 + (.25 × Number of previous violations)].
$200,000–249,999.99	[$2245 + ($261 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$11,224 × [1 + (.25 × Number of previous violations)].
$250,000–349,999.99	[$3367 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$13,468 × [1 + (.25 × Number of previous violations)].
$350,000–449,999.99	[$4489 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$14,966 × [1 + (.25 × Number of previous violations)].
$450,000–549,999.99	[$5612 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$16,461 × [1 + (.25 × Number of previous violations)].
$550,000–649,999.99	[$6735 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$17,958 × [1 + (.25 × Number of previous violations)].
$650,000–749,999.99	[$7857 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$19,455 × [1 + (.25 × Number of previous violations)].
$750,000–849,999.99	[$8978 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$20,951 × [1 + (.25 × Number of previous violations)].
$850,000–949,999.99	[$10,101 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$22,446 × [1 + (.25 × Number of previous violations)].
$950,000 or over	[$11,224 + ($298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$23,944 × [1 + (.25 × Number of previous violations)].

[1] The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be $8,231.

* * * * *

§ 111.44 [Amended]

■ 4. Amend § 111.44(a)(1) by removing ''$149'' and adding in its place ''$151''.

Dated: December 30, 2020.

On behalf of the Commission.

Ellen L. Weintraub,

Commissioner, Federal Election Commission.

[FR Doc. 2020–29184 Filed 1–8–21; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 313

RIN 3064–AF25

Collection of Civil Money Penalty Debt

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending the FDIC's Procedures for Corporate Debt Collection to include delinquent civil money penalties within the debt covered by those procedures.

DATES: The final rule is effective on February 10, 2021.

FOR FURTHER INFORMATION CONTACT: Graham N. Rehrig, Senior Attorney (202) 898–3829, *grehrig@fdic.gov;* Gabrielle A.J. Beam, Counsel (Team Leader) (816) 234–8503, *gabeam@fdic.gov;* or Michael P. Farrell, Counsel (202) 898–3853, *mfarrell@fdic.gov.*

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The Debt Collection Improvement Act of 1996 (DCIA) requires Federal agencies to collect debts owed to the United States in accordance with regulations that either adopt, or at least are consistent with, standards prescribed by the Department of Justice (DOJ) and Department of the Treasury (Treasury).[1] Treasury has issued regulations applicable to collection under the DCIA, and these regulations,

[1] *See* Public Law 104–134, 110 Stat. 1321–358 (codified at 31 U.S.C. 3701 *et seq.*).

known as the Federal Claims Collection Standards (FCCS), became effective on December 22, 2000. The purpose of the DCIA is to enhance the efficiency and effectiveness of the Federal Government's efforts to collect debt owed to the United States. A principal feature of the DCIA was the creation of the Treasury Offset Program (TOP), a Government-wide database of delinquent debtors that offsets (reduces) Federal payments to recipients who also owe delinquent debt to the United States and that remits the offset amount to the creditor agency.

The FDIC is amending its regulations, in accordance with the DCIA, to add the collection of civil money penalty (CMP) debt to the FDIC's existing debt-collection regulations found in 12 CFR part 313. Part 313 does not currently provide for collection of CMP debt. The amendments would allow the FDIC to refer debts arising from its enforcement-related activities to Treasury for collection, thereby improving the effectiveness of the FDIC's debt-collection efforts.

II. Background

In 2002, the FDIC, in compliance with the DCIA, promulgated 12 CFR part 313