

arrival time of the passenger's original flight; and (3) at least 400 percent of the fare to the passenger's destination or first stopover, or \$1,550, whichever is

lower, if the carrier does not offer alternate transportation that is planned to arrive at the airport of the passenger's destination or first stopover less than

two hours after the planned arrival time of the passenger's original flight.

0 to 1 hour arrival delay ..... No compensation.

1 to 2 hour arrival delay ..... 200% of one-way fare (carriers may limit this amount to \$775 if it is higher than \$775).\*

Over 2 hours arrival delay ..... 400% of one-way fare (carriers may limit this amount to \$1,550 if it is higher than \$1,550).\*

\* Nothing in the Department of Transportation's regulation prohibits carriers from offering denied boarding compensations in an amount more than the amount calculated according to the chart above, or more than the denied boarding compensation liability limit amounts stated in the chart.

#### International Transportation

Passengers traveling from the United States to a foreign point who are denied boarding involuntarily from an oversold flight originating at a U.S. airport are entitled to: (1) No compensation if the carrier offers alternate transportation that is planned to arrive at the passenger's destination or first stopover

not later than one hour after the planned arrival time of the passenger's original flight; (2) at least 200 percent of the fare to the passenger's destination or first stopover, or \$775, whichever is lower, if the carrier offers alternate transportation that is planned to arrive at the passenger's destination or first stopover more than one hour but less than four hours after the planned arrival time of

the passenger's original flight; and (3) at least 400 percent of the fare to the passenger's destination or first stopover, or \$1,550, whichever is lower, if the carrier does not offer alternate transportation that is planned to arrive at the airport of the passenger's destination or first stopover less than four hours after the planned arrival time of the passenger's original flight.

0 to 1 hour arrival delay ..... No compensation.

1 to 4 hour arrival delay ..... 200% of one-way fare (carriers may limit this amount to \$775 if it is higher than \$775).\*\*

Over 4 hours arrival delay ..... 400% of one-way fare (carriers may limit this amount to \$1,550 if it is higher than \$1,550).\*\*

\*\* Nothing in the Department of Transportation's regulation prohibits carriers from offering denied boarding compensations in an amount more than the amount calculated according to the chart above, or more than the denied boarding compensation liability limit amounts stated in the chart.

\* \* \* \* \*

### PART 254—DOMESTIC BAGGAGE LIABILITY

■ 7. The authority citation for 14 CFR part 254 continues to read as follows:

**Authority:** 49 U.S.C. 40113, 41501, 41504, 41510, 41702, and 41707.

#### § 254.4 [Amended]

■ 8. Section 254.4 is amended by removing "\$3,500" and adding "\$3,800" in its place.

#### § 254.5 [Amended]

■ 9. Section 254.5(b) is amended by removing "\$3,500" and adding "\$3,800" in its place.

■ 10. Section 254.6 is revised to read as follows:

#### § 254.6 Periodic adjustments.

The Department of Transportation will review the domestic baggage liability limit prescribed in this part every two years. The Department will use the Consumer Price Index for All Urban Consumers as of July of each review year to calculate the revised domestic baggage liability limit amount. The Department will use the following formula:  $\$2500 \times (a/b)$  rounded to the nearest \$100, where a = July CPI-U of year of current adjustment and b = the CPI-U figure in December 1999 when the inflation adjustment provision was added to this part.

Issued in Washington, DC, on this 15th day of December 2020, pursuant to authority delegated in 49 CFR 1.27(n).

**Steven G. Bradbury,**

*General Counsel.*

[FR Doc. 2020-28001 Filed 1-12-21; 8:45 am]

**BILLING CODE 4910-9X-P**

### FEDERAL TRADE COMMISSION

#### 16 CFR Part 1

#### Adjustments to Civil Penalty Amounts

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission ("FTC" or "Commission") is implementing adjustments to the civil penalty amounts within its jurisdiction to account for inflation, as required by law.

**DATES:** Effective January 13, 2021.

#### FOR FURTHER INFORMATION CONTACT:

Kenny A. Wright, Attorney (202-326-2907), or Marie Choi, Attorney (202-326-3368), Office of the General Counsel, FTC, 600 Pennsylvania Avenue NW, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015<sup>1</sup> directs agencies to adjust the civil

penalty maximums under their jurisdiction for inflation every January. Accordingly, the Commission issues annual adjustments to the maximum civil penalty amounts under its jurisdiction.<sup>2</sup>

Commission Rule § 1.98 sets forth the applicable civil penalty amounts for violations of certain laws enforced by the Commission.<sup>3</sup> As directed by the FCPIAA, the Commission is issuing adjustments to increase these maximum civil penalty amounts to address inflation since its prior 2020 adjustment. The following adjusted amounts will take effect on January 13, 2021:

- Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1) (premerger filing notification violations under the Hart-Scott-Rodino Improvements Act)—Increase from \$43,280 to \$43,792;

- Section 11(I) of the Clayton Act, 15 U.S.C. 21(I) (violations of cease and desist orders issued under Clayton Act section 11(b))—Increase from \$22,994 to \$23,266;

- Section 5(I) of the FTC Act, 15 U.S.C. 45(I) (unfair or deceptive acts or practices)—Increase from \$43,280 to \$43,792;

- Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. 45(m)(1)(A) (unfair or

101-410, 104 Stat. 890 (codified at 28 U.S.C. 2461 note).

<sup>2</sup> 81 FR 42476 (2016); 82 FR 8135 (2017); 83 FR 2902 (2018); 84 FR 3980 (2019); 85 FR 2014 (2020).

<sup>3</sup> 16 CFR 1.98.

<sup>1</sup> Public Law 114-74, sec. 701, 129 Stat. 599

(2015). The Act amends the Federal Civil Penalties Inflation Adjustment Act ("FCPIAA"), Public Law

deceptive acts or practices)—Increase from \$43,280 to \$43,792;

- Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. 45(m)(1)(B) (unfair or deceptive acts or practices)—Increase from \$43,280 to \$43,792;
- Section 10 of the FTC Act, 15 U.S.C. 50 (failure to file required reports)—Increase from \$569 to \$576;
- Section 5 of the Webb-Pomerene (Export Trade) Act, 15 U.S.C. 65 (failure by associations engaged solely in export trade to file required statements)—Increase from \$569 to \$576;
- Section 6(b) of the Wool Products Labeling Act, 15 U.S.C. 68d(b) (failure by wool manufacturers to maintain required records)—Increase from \$569 to \$576;
- Section 3(e) of the Fur Products Labeling Act, 15 U.S.C. 69a(e) (failure to maintain required records regarding fur products)—Increase from \$569 to \$576;
- Section 8(d)(2) of the Fur Products Labeling Act, 15 U.S.C. 69f(d)(2) (failure to maintain required records regarding fur products)—Increase from \$569 to \$576;
- Section 333(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(a)

(knowing violations of EPCA sec. 332, including labeling violations)—Increase from \$468 to \$474;

- Section 525(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6395(a) (recycled oil labeling violations)—Increase from \$22,994 to \$23,266;
- Section 525(b) of the Energy Policy and Conservation Act, 42 U.S.C. 6395(b) (willful violations of recycled oil labeling requirements)—Increase from \$43,280 to \$43,792;
- Section 621(a)(2) of the Fair Credit Reporting Act, 15 U.S.C. 1681s(a)(2) (knowing violations of the Fair Credit Reporting Act)—Increase from \$4,063 to \$4,111;
- Section 1115(a) of the Medicare Prescription Drug Improvement and Modernization Act of 2003, Public Law 108–173, as amended by Public Law 115–263, 21 U.S.C. 355 note (failure to comply with filing requirements)—Increase from \$15,301 to \$15,482; and
- Section 814(a) of the Energy Independence and Security Act of 2007, 42 U.S.C. 17304 (violations of prohibitions on market manipulation and provision of false information to

Federal agencies)—Increase from \$1,231,690 to \$1,246,249.

**Calculation of Inflation Adjustments**

The FCPIAA, as amended, directs Federal agencies to adjust each civil monetary penalty under their jurisdiction for inflation in January of each year pursuant to a cost-of-living adjustment.<sup>4</sup> The cost-of-living adjustment is based on the percent change between the U.S. Department of Labor’s Consumer Price Index for all-urban consumers (“CPI-U”) for the month of October preceding the date of the adjustment, and the CPI-U for October of the prior year.<sup>5</sup> Based on that formula, the cost-of-living adjustment multiplier for 2021 is 1.01182. The FCPIAA also directs that these penalty level adjustments should be rounded to the nearest dollar. Agencies do not have discretion over whether to adjust a maximum civil penalty, or the method used to determine the adjustment.

The following chart illustrates the application of these adjustments to the civil monetary penalties under the Commission’s jurisdiction.

CALCULATION OF ADJUSTMENTS TO MAXIMUM CIVIL MONETARY PENALTIES

Citation	Description	2020 Penalty level	Adjustment multiplier	2021 Penalty level (rounded to the nearest dollar)
16 CFR 1.98(a): 15 U.S.C. 18a(g)(1)	Premerger filing notification violations	\$43,280	1.01182	\$43,792
16 CFR 1.98(b): 15 U.S.C. 21(f)	Violations of cease and desist orders	22,994	1.01182	23,266
16 CFR 1.98(c): 15 U.S.C. 45(l)	Unfair or deceptive acts or practices	43,280	1.01182	43,792
16 CFR 1.98(d): 15 U.S.C. 45(m)(1)(A)	Unfair or deceptive acts or practices	43,280	1.01182	43,792
16 CFR 1.98(e): 15 U.S.C. 45(m)(1)(B)	Unfair or deceptive acts or practices	43,280	1.01182	43,792
16 CFR 1.98(f): 15 U.S.C. 50	Failure to file required reports	569	1.01182	576
16 CFR 1.98(g): 15 U.S.C. 65	Failure to file required statements	569	1.01182	576
16 CFR 1.98(h): 15 U.S.C. 68d(b)	Failure to maintain required records	569	1.01182	576
16 CFR 1.98(i): 15 U.S.C. 69a(e)	Failure to maintain required records	569	1.01182	576
16 CFR 1.98(j): 15 U.S.C. 69f(d)(2)	Failure to maintain required records	569	1.01182	576
16 CFR 1.98(k): 42 U.S.C. 6303(a)	Knowing violations	468	1.01182	474
16 CFR 1.98(l): 42 U.S.C. 6395(a)	Recycled oil labeling violations	22,994	1.01182	23,266
16 CFR 1.98(m): 42 U.S.C. 6395(b)	Willful violations	43,280	1.01182	43,792
16 CFR 1.98(n): 15 U.S.C. 1681s(a)(2)	Knowing violations	4,063	1.01182	4,111
16 CFR 1.98(o): 21 U.S.C. 355 note	Non-compliance with filing requirements	15,301	1.01182	15,482
16 CFR 1.98(o): 42 U.S.C. 17304	Market manipulation or provision of false information to Federal agencies.	1,231,690	1.01182	1,246,249

**Effective Dates of New Penalties**

These new penalty levels apply to civil penalties assessed after the effective date of the applicable adjustment, including civil penalties whose associated violation predated the effective date.<sup>6</sup> These adjustments do not retrospectively change previously assessed or enforced civil penalties that

the FTC is actively collecting or has collected.

**Procedural Requirements**

The FCPIAA, as amended, directs agencies to adjust civil monetary penalties through rulemaking and to publish the required inflation adjustments in the **Federal Register**,

notwithstanding section 553 of title 5, United States Code. Pursuant to this congressional mandate, prior public notice and comment under the APA and a delayed effective date are not required. For this reason, the requirements of the Regulatory Flexibility Act (“RFA”) also do not apply.<sup>7</sup> Further, this rule does not contain any collection of

<sup>4</sup> 28 U.S.C. 2461 note (4).

<sup>5</sup> *Id.* (3), (5)(b); Office of Management and Budget, Memorandum M–21–10, *Implementation of Penalty Inflation Adjustments for 2021*, Pursuant to the *Federal Civil Penalties Inflation Adjustment Act*

*Improvements Act of 2015* (December 23, 2020), available at: <https://www.whitehouse.gov/wp-content/uploads/2020/12/M-21-10.pdf>.

<sup>6</sup> 28 U.S.C. 2461 note (6).

<sup>7</sup> A regulatory flexibility analysis under the RFA is required only when an agency must publish a notice of proposed rulemaking for comment. *See* 5 U.S.C. 603.

information requirements as defined by the Paperwork Reduction Act of 1995 as amended. 44 U.S.C. 3501 *et seq.*

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

### List of Subjects in 16 CFR Part 1

Administrative practice and procedure, Penalties, Trade practices.

### Text of Amendments

For the reasons set forth in the preamble, the Federal Trade Commission amends title 16, chapter I, subchapter A, of the Code of Federal Regulations, as follows:

## PART 1—GENERAL PROCEDURES

### Subpart L—Civil Penalty Adjustments Under the Federal Civil Penalties Inflation Adjustment Act of 1990, as Amended

■ 1. The authority citation for part 1, subpart L, continues to read as follows:

**Authority:** 28 U.S.C. 2461 note.

■ 2. Revise § 1.98 to read as follows:

#### § 1.98 Adjustment of civil monetary penalty amounts.

This section makes inflation adjustments in the dollar amounts of civil monetary penalties provided by law within the Commission’s jurisdiction. The following maximum civil penalty amounts apply only to penalties assessed after January 13, 2021, including those penalties whose associated violation predated January 13, 2021.

- (a) Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1)—\$43,792;
- (b) Section 11(I) of the Clayton Act, 15 U.S.C. 21(I)—\$23,266;
- (c) Section 5(I) of the FTC Act, 15 U.S.C. 45(I)—\$43,792;
- (d) Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. 45(m)(1)(A)—\$43,792;
- (e) Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. 45(m)(1)(B)—\$43,792;
- (f) Section 10 of the FTC Act, 15 U.S.C. 50—\$576;
- (g) Section 5 of the Webb-Pomerene (Export Trade) Act, 15 U.S.C. 65—\$576;
- (h) Section 6(b) of the Wool Products Labeling Act, 15 U.S.C. 68d(b)—\$576;
- (i) Section 3(e) of the Fur Products Labeling Act, 15 U.S.C. 69a(e)—\$576;
- (j) Section 8(d)(2) of the Fur Products Labeling Act, 15 U.S.C. 69f(d)(2)—\$576;
- (k) Section 333(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(a)—\$474;
- (l) Sections 525(a) and (b) of the Energy Policy and Conservation Act, 42

U.S.C. 6395(a) and (b), respectively—\$23,266 and \$43,792, respectively;

(m) Section 621(a)(2) of the Fair Credit Reporting Act, 15 U.S.C. 1681s(a)(2)—\$4,111;

(n) Section 1115(a) of the Medicare Prescription Drug Improvement and Modernization Act of 2003, Public Law 108–173, as amended by Public Law 115–263, 21 U.S.C. 355 note—\$15,482;

(o) Section 814(a) of the Energy Independence and Security Act of 2007, 42 U.S.C. 17304—\$1,246,249; and

(p) Civil monetary penalties authorized by reference to the Federal Trade Commission Act under any other provision of law within the jurisdiction of the Commission—refer to the amounts set forth in paragraphs (c), (d), (e) and (f) of this section, as applicable.

By direction of the Commission.

**April J. Tabor,**

*Acting Secretary.*

[FR Doc. 2021–00483 Filed 1–12–21; 8:45 am]

**BILLING CODE 6750–01–P**

## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 4071 and 4302

**RIN 1212–AB45**

### Adjustment of Civil Penalties for Inflation

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation is required to amend its regulations annually to adjust for inflation the maximum civil penalty for failure to provide certain notices or other material information and for failure to provide certain multiemployer plan notices.

#### **DATES:**

**Effective date:** This rule is effective on January 13, 2021.

**Applicability date:** The increases in the civil monetary penalties under sections 4071 and 4302 of the Employee Retirement Income Security Act provided for in this rule apply to such penalties assessed after January 13, 2021.

#### **FOR FURTHER INFORMATION CONTACT:**

Gregory Katz ([katz.gregory@pbgc.gov](mailto:katz.gregory@pbgc.gov)), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–229–3829. (TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–229–3829.)

## **SUPPLEMENTARY INFORMATION:**

### **Executive Summary**

#### *Purpose of the Regulatory Action*

This rule is needed to carry out the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance M–21–10. The rule adjusts, as required for 2021, the maximum civil penalties under 29 CFR 4071 and 29 CFR 4302 that the Pension Benefit Guaranty Corporation (PBGC) may assess for failure to provide certain notices or other material information and certain multiemployer plan notices.

PBGC’s legal authority for this action comes from the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and from sections 4002(b)(3), 4071, and 4302 of the Employee Retirement Income Security Act of 1974 (ERISA).

#### *Major Provisions of the Regulatory Action*

This rule adjusts as required by law the maximum civil penalties that PBGC may assess under sections 4071 and 4302 of ERISA. The new maximum amounts are \$2,259 for section 4071 penalties and \$301 for section 4302 penalties.

### **Background**

PBGC administers title IV of ERISA. Title IV has two provisions that authorize PBGC to assess civil monetary penalties.<sup>1</sup> Section 4302, added to ERISA by the Multiemployer Pension Plan Amendments Act of 1980, authorizes PBGC to assess a civil penalty of up to \$100 a day for failure to provide a notice under subtitle E of title IV of ERISA (dealing with multiemployer plans). Section 4071, added to ERISA by the Omnibus Budget Reconciliation Act of 1987, authorizes PBGC to assess a civil penalty of up to \$1,000 a day for failure to provide a notice or other material information under subtitles A, B, and C of title IV and sections 303(k)(4) and 306(g)(4) of title I of ERISA.

<sup>1</sup> Under the Federal Civil Penalties Inflation Adjustment Act of 1990, a penalty is a civil monetary penalty if (among other things) it is for a specific monetary amount or has a maximum amount specified by Federal law. Title IV also provides (in section 4007) for penalties for late payment of premiums, but those penalties are neither in a specified amount nor subject to a specified maximum amount.