

| 2022 NAICS codes | | 2022 NAICS industry titles | | | | |
|---|-------|---|--|--|--|--|
| Electronics Specialized Industry | | | | | | |
| 333310 | | Commercial and service industry machinery manufacturing. | | | | |
| 334610 | | Manufacturing and reproducing magnetic and optical media. | | | | |
| Guided Missiles Specialized Industry | | | | | | |
| 333310 | | Commercial and service industry machinery manufacturing. | | | | |
| 334610 | | Manufacturing and reproducing magnetic and optical media. | | | | |
| Sighting and Fire Control Equipment Specialized Industry | | | | | | |
| 333310 | | Commercial and service industry machinery manufacturing. | | | | |
| 334610 | | Manufacturing and reproducing magnetic and optical media. | | | | |

* * * * *

[FR Doc. 2024-01086 Filed 1-23-24; 8:45 am]

BILLING CODE 6325-39-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 143

RIN 3038-AF32

Annual Adjustment of Civil Monetary Penalties To Reflect Inflation—2024

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (Commission) is amending its rule that governs the maximum amount of civil monetary penalties imposed under the Commodity Exchange Act (CEA), to adjust for inflation. This rule sets forth the maximum, inflation-adjusted dollar amount for civil monetary penalties (CMPs) assessable for violations of the CEA and Commission rules, regulations and orders thereunder. The rule, as amended, implements the Federal Civil

Penalties Inflation Adjustment Act of 1990, as amended.

DATES: This rule is effective on January 24, 2024 and is applicable to penalties assessed after January 15, 2024.

FOR FURTHER INFORMATION CONTACT: Edward J. Riccobene, Associate Chief Counsel, Division of Enforcement, at (202) 418-5327 or ericcobene@cftc.gov, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA)¹ requires the head of each Federal agency to periodically adjust for inflation the minimum and maximum amount of CMPs provided by law within the jurisdiction of that agency.² A 2015

¹ The FCPIAA, Public Law 101-410 (1990), as amended, is codified at 28 U.S.C. 2461 note. The FCPIAA states that the purpose of the FCPIAA is to establish a mechanism that shall (1) allow for regular adjustment for inflation of civil monetary penalties; (2) maintain the deterrent effect of civil monetary penalties and promote compliance with the law; and (3) improve the collection by the Federal Government of civil monetary penalties.

² For the relevant CMPs within the Commission's jurisdiction, the Act provides only for maximum

amendment to the FCPIAA³ required agencies to make an initial “catch-up” adjustment to its civil monetary penalties effective no later than August 1, 2016.⁴ For every year thereafter effective not later than January 15th, the FCPIAA, as amended, requires agencies to make annual adjustments for inflation, with guidance from the Director of the Office of Management and Budget.⁵

II. Commodity Exchange Act Civil Monetary Penalties

The following sections of the CEA provide for CMPs that meet the FCPIAA

amounts that can be assessed for each violation of the Act or the rules, regulations and orders promulgated thereunder; the Act does not set forth any minimum penalties. Therefore, the remainder of this release will refer only to CMP maximums.

³ Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114-74, 129 Stat. 584 (2015) (2015 Act), title VII, Section 701.

⁴ FCPIAA Sections 4 and 5. See also, Adjustment of Civil Monetary Penalties for Inflation, 81 FR 41435 (June 27, 2016).

⁵ FCPIAA Sections 4 and 5. See also, Executive Office of the President, Office of Management and Budget Memorandum, M-24-07, Implementation of Penalty Inflation Adjustments for 2024 (Dec. 19, 2023) (2023 OMB Guidance) (<https://www.whitehouse.gov/wp-content/uploads/2023/12/M-24-07-Implementation-of-Penalty-Inflation-Adjustments-for-2024.pdf>).

definition⁶ and these CMPs are, therefore, subject to the inflation adjustment: Sections 6(c), 6b, and 6c of the CEA.⁷

III. Annual Inflation Adjustment for Commodity Exchange Act Civil Monetary Penalties

A. Methodology

The FCPIAA annual inflation adjustment, in the context of the CFTC’s

CMPs, is determined by increasing the maximum penalty by a “cost-of-living adjustment”, rounded to the nearest multiple of one dollar.⁸ Annual inflation adjustments are based on the percent change between the October Consumer Price Index for all Urban Consumers (CPI-U) preceding the date of the adjustment, and the prior year’s October CPI-U.⁹ In this case, the October 2023 CPI-U (307.671)/October

2022 CPI-U (298.012) = 1.03241.¹⁰ In order to complete the 2024 annual adjustment, the CFTC must multiply each of its most recent CMP amounts by the multiplier, 1.03241, and round to the nearest dollar.¹¹

B. Civil Monetary Penalty Adjustments

Applying the FCPIAA annual inflation adjustment methodology results in the following amended CMPs:

| U.S. Code citation | Civil monetary penalty description | Violations occurring on or after 11/02/2015 | | | |
|--|--|--|------------------|-----------------------------|-----------|
| | | Penalty amount in 2023 final rule ¹² | CPI-U multiplier | New adjusted penalty amount | |
| Civil Monetary Penalty Imposed by the Commission in an Administrative Action | | | | | |
| 7 U.S.C. 9 (Section 6(c) of the Commodity Exchange Act). | For any person other than a registered entity ¹ . | Other Than Manipulation or Attempted Manipulation. | \$194,710 | 1.03241 | \$201,021 |
| | For any person other than a registered entity ¹ . | Manipulation or Attempted Manipulation. | 1,404,520 | 1.03241 | 1,450,040 |
| 7 U.S.C. 13a (Section 6b of the Commodity Exchange Act). | For a registered entity ¹ or any of its directors, officers or employees. | Other Than Manipulation or Attempted Manipulation. | 1,072,570 | 1.03241 | 1,107,332 |
| | For a registered entity ¹ or any of its directors, officers or employees. | Manipulation or Attempted Manipulation. | 1,404,520 | 1.03241 | 1,450,040 |
| Civil Monetary Penalty Imposed by a Federal District Court in a Civil Injunctive Action | | | | | |
| 7 U.S.C. 13a-1 (Section 6c of the Commodity Exchange Act). | Any Person | Other Than Manipulation or Attempted Manipulation. | 214,514 | 1.03241 | 221,466 |
| | Any Person | Manipulation or Attempted Manipulation. | 1,404,520 | 1.03241 | 1,450,040 |

¹ The term “Registered Entity” is defined in 7 U.S.C. 1a (Section 1a of the Commodity Exchange Act).

The FCPIAA provides that any increase under the FCPIAA in a civil monetary penalty shall apply only to civil monetary penalties, including those whose associated violation predated such increase, which are assessed after the date the increase takes effect.¹³ Thus, the new CMP amounts established by this rulemaking shall apply to penalties assessed after January 15, 2024, for violations that occurred on or after November 2, 2015, the effective date of the FCPIAA amendment requiring annual adjustments, the 2015 Act.

IV. Administrative Compliance

A. Notice Requirement

The FCPIAA specifically exempted from the Administrative Procedure Act (APA) the rulemakings required to implement annual inflation

adjustments.¹⁴ This means that the public procedure the APA generally requires—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.¹⁵ The Commission further notes that the notice and comment procedures of the APA do not apply to this rulemaking because the Commission is acting herein pursuant to statutory language that mandates that the Commission act in a nondiscretionary matter.¹⁶

B. Regulatory Flexibility Act

The Regulatory Flexibility Act¹⁷ requires agencies with rulemaking authority to consider the impact of certain of their rules on small businesses. A regulatory flexibility analysis is only required for rules for which the agency publishes a general

notice of proposed rulemaking pursuant to section 553(b) or any other law.¹⁸ Because, as discussed above, the Commission is not obligated by section 553(b) or any other law to publish a general notice of proposed rulemaking with respect to the revisions being made to Rule 143.8, the Commission additionally is not obligated to conduct a regulatory flexibility analysis.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA),¹⁹ which imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA, does not apply to this rule. This rule amendment does not contain information collection requirements that

⁶ FCPIAA Section 3(2).

⁷ 7 U.S.C. 9, 13a-1, 13b. Criminal authorities may also seek fines for criminal violations of the CEA (see 7 U.S.C. 13, 13(c), 13(d), 13(e), and 13b). The FCPIAA does not affect the amounts of these criminal penalties.

⁸ FCPIAA Sections 4 and 5.

⁹ FCPIAA Section 5(b)(1).

¹⁰ The CPI-U is published by the Department of Labor. Interested parties may find the relevant Consumer Price Index on the internet. To access

this information, go to the Consumer Price Index Home Page at: <http://www.bls.gov/cpi/>. Click the “CPI Data/Databases” heading, and select “All Urban Consumers (Current Series)”, “Top Picks.” Then check the box for “U.S. city average, All items—CUUR0000SA0”, and click the “Retrieve data” button.

¹¹ FCPIAA Section 5(a). See also, 2023 OMB Guidance at 1.

¹² Annual Adjustment of Civil Monetary Penalties to Reflect Inflation—2023, 88 FR 1501 (Jan. 11,

2023); <https://www.cftc.gov/sites/default/files/2023/01/2023-00396a.pdf>.

¹³ FCPIAA Section 6.

¹⁴ FCPIAA Section 4(b)(2).

¹⁵ 2023 OMB Guidance at 3-4.

¹⁶ *Lake Carriers’ Ass’n v. E.P.A.*, 652 F.3d 1, 10 (D.C. Cir. 2011).

¹⁷ 5 U.S.C. 601-612.

¹⁸ 5 U.S.C. 603(a).

¹⁹ 44 U.S.C. 3507(d).

require the approval of the Office of Management and Budget.
D. Consideration of Costs and Benefits

Section 15(a) of the CEA²⁰ requires the Commission to consider the costs and benefits of its action before issuing a new regulation. Section 15(a) of the CEA further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

The Commission believes that benefits of this rulemaking greatly outweigh the costs, if any. As the Commission understands, the statutory provisions by which it is making cost-

of-living adjustments to the CMPs in Rule 143.8 were enacted to ensure that CMPs do not lose their deterrence value because of inflation. An analysis of the costs and benefits of these adjustments were made before enactment of the statutory provisions under which the Commission is operating, and limit the discretion of the Commission to the extent that there are no regulatory choices the Commission could make that would supersede the pre-enactment analysis with respect to the five factors enumerated in Section 15(a) of the CEA, or any other factors.

List of Subjects in 17 CFR Part 143

Claims, Penalties.

For the reasons set forth in the preamble, the Commodity Futures Trading Commission amends part 143 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 143—COLLECTION OF CLAIMS OWED THE UNITED STATES ARISING FROM ACTIVITIES UNDER THE COMMISSION’S JURISDICTION

■ 1. The authority citation for part 143 continues to read as follows:

Authority: 7 U.S.C. 9, 9a, 12a(5), 13a, 13a–1(d), 13(a), 13b; 31 U.S.C. 3701–3720E; 28 U.S.C. 2461 note.

■ 2. Amend § 143.8 by revising paragraph (b) to read as follows:

§ 143.8 Inflation-adjusted civil monetary penalties.

* * * * *

(b) *2024 Inflation adjustment.* The maximum amount of each civil monetary penalty in the following charts applies to penalties assessed after January 15, 2024:

(1) For violations, other manipulation, or attempted manipulation:

TABLE 1 TO PARAGRAPH (b)(1)

| U.S. Code citation | Civil monetary penalty description | Date of violation and corresponding penalty | | | |
|--|--|---|-------------------------------|-------------------------------|-----------------------|
| | | 10/23/2004 through 10/22/2008 | 10/23/2008 through 10/22/2012 | 10/23/2012 through 11/01/2015 | 11/02/2015 to present |
| Civil Monetary Penalty Imposed by the Commission in an Administrative Action | | | | | |
| 7 U.S.C. 9 (Section 6(c) of the Commodity Exchange Act). | For any person other than a registered entity ¹ | \$130,000 | \$140,000 | \$140,000 | \$201,021 |
| 7 U.S.C. 13a (Section 6b of the Commodity Exchange Act). | For a registered entity ¹ or any of its directors, officers or employees. | 625,000 | 675,000 | 700,000 | 1,107,332 |
| Civil Monetary Penalty Imposed by a Federal District Court in a Civil Injunctive Action | | | | | |
| 7 U.S.C. 13a–1 (Section 6c of the Commodity Exchange Act). | Any Person | 130,000 | 140,000 | 140,000 | 221,466 |

¹ The term “Registered Entity” is defined in 7 U.S.C. 1a (Section 1a of the Commodity Exchange Act).

(2) For manipulation or attempted manipulation violations:

TABLE 2 TO PARAGRAPH (b)(2)

| U.S. Code citation | Civil monetary penalty description | Date of violation and corresponding penalty | | | |
|--|--|---|-------------------------------|-------------------------------|-----------------------|
| | | 10/23/2004 through 05/21/2008 | 05/22/2008 through 08/14/2011 | 08/15/2011 through 11/01/2015 | 11/02/2015 to present |
| Civil Monetary Penalty Imposed by the Commission in an Administrative Action | | | | | |
| 7 U.S.C. 9 (Section 6(c) of the Commodity Exchange Act). | For any person other than a registered entity ¹ | \$130,000 | \$1,000,000 | \$1,025,000 | \$1,450,040 |
| 7 U.S.C. 13a (Section 6b of the Commodity Exchange Act). | For a registered entity ¹ or any of its directors, officers or employees. | 625,000 | 1,000,000 | 1,025,000 | 1,450,040 |
| Civil Monetary Penalty Imposed by a Federal District Court in a Civil Injunctive Action | | | | | |
| 7 U.S.C. 13a–1 (Section 6c of the Commodity Exchange Act). | Any Person | 130,000 | 1,000,000 | 1,025,000 | 1,450,040 |

¹ The term “Registered Entity” is defined in 7 U.S.C. 1a (Section 1a of the Commodity Exchange Act).

²⁰ 7 U.S.C. 19(a).

Issued in Washington, DC, on January 19, 2024, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Annual Adjustment of Civil Monetary Penalties To Reflect Inflation—2024—Commission Voting Summary

On this matter, Chairman Behnam and Commissioners Johnson, Goldsmith Romero, Mersinger, and Pham voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2024-01341 Filed 1-23-24; 8:45 am]

BILLING CODE 6351-01-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33-11259; 34-99193; 39-2553; IC-35068]

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (“Commission”) is adopting amendments to Volume II of the Electronic Data Gathering, Analysis, and Retrieval system Filer Manual (“EDGAR Filer Manual” or “Filer Manual”) and related rules and forms. EDGAR Release 23.4 will be deployed in the EDGAR system on December 18, 2023.

DATES: *Effective date:* January 24, 2024.

Incorporation by reference: The incorporation by reference of the revised Filer Manual is approved by the Director of the Federal Register as of January 24, 2024.

FOR FURTHER INFORMATION CONTACT: For questions regarding the amendments to Volume II of the Filer Manual, please contact Rosemary Filou, Deputy Director and Chief Counsel, Jane Patterson, Senior Special Counsel, or Lidian Pereira, Senior Special Counsel, in the EDGAR Business Office at (202) 551-3900. For questions regarding new Item 1.05 in Forms 8-K, 8-K12B, 8-K12G3, 8-K15D5, 8-K/A, 8-K12B/A, 8-K12G3/A, and 8-K15D/A, please contact Nabeel Cheema, Senior Counsel, in the Division of Corporation Finance at (202) 551-5512. For questions regarding updates to disclosures in Schedules 13D and 13G related to beneficial ownership or interests in

security-based swaps, please contact Nicholas Panos, Senior Special Counsel, or Valian Afshar, Senior Special Counsel, in the Division of Corporation Finance at (202) 551-3440. For questions regarding new tagging requirements for Forms N-8B-2 and S-6, please contact Heather Fernandez, Financial Analyst, in the Division of Investment Management at (202) 551-6708. For questions concerning taxonomies or schemas, please contact the Office of Structured Disclosure in the Division of Economic and Risk Analysis at (202) 551-5494.

SUPPLEMENTARY INFORMATION: We are adopting an updated Filer Manual, Volume II: “EDGAR Filing,” Version 68 (December 2023) and amendments to 17 CFR 232.301 (“Rule 301”). The updated Filer Manual is incorporated by reference into the Code of Federal Regulations.

I. Background

The Filer Manual contains information needed for filers to make submissions on EDGAR. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.¹ Filers must consult the Filer Manual in conjunction with our rules governing mandated electronic filings when preparing documents for electronic submission.

II. EDGAR System Changes and Associated Modifications to Volume II of the Filer Manual

EDGAR is being updated in EDGAR Release 23.4, and corresponding amendments to Volume II of the Filer Manual are being made to reflect these changes, as described below.²

Public Company Cybersecurity Incident Disclosure

On July 26, 2023, the Commission adopted new rules to enhance and standardize disclosures regarding cybersecurity risk management, strategy, governance, and incidents by public companies that are subject to the reporting requirements of the Securities Exchange Act of 1934.³ The new rules require registrants to disclose material cybersecurity incidents on new Item 1.05 of Forms 8-K, 8-K12B, 8-K12G3, 8-K15D5, 8-K/A, 8-K12B/A, 8-K12G3/A, and 8-K15D/A, and describe certain

aspects of the incident’s nature, scope, and timing, as well as its material impact or reasonably likely material impact on the registrant, within four business days after a registrant determines the cybersecurity incident is material. EDGAR will be modified to add new Item 1.05 to the relevant forms to allow registrants to disclose the required information.

Rule Amendments Modernizing Beneficial Ownership Reporting

On October 10, 2023, the Commission adopted amendments to certain rules that govern beneficial ownership reporting. These rule revisions both shorten filing deadlines for initial and amended reports and require that all information disclosed within the reports, excluding exhibits, be filed using structured, machine-readable language.⁴ To the extent that a beneficial owner wishes to submit an amendment to a Schedule 13D on EDGAR as a combined filing with a Schedule TO, however, the combined filing would not be required or allowed to be filed using structured, machine-readable language. EDGAR will be modified accordingly.

In addition, EDGAR will be modified such that when the amendments become effective on February 5, 2024, a Schedule 13D, Schedule 13D/A, Schedule 13G, and Schedule 13G/A filed before 10 p.m. eastern time on a day that EDGAR is operating will receive a filing date identical to the EDGAR received date and will be disseminated until 10 p.m. eastern time.

Investment Company Name Clarification

On September 20, 2023, the Commission amended rules under the Investment Company Act of 1940 to clarify certain broad categories of investment company names that are likely to mislead investors about an investment company’s investments and risks.⁵ To implement this rulemaking, EDGAR will be updated to support a new taxonomy—FND—with 2023 and 2022 versions. EDGAR will also be updated to accept Inline XBRL submissions on Forms N-8B-2 and S-6.

Removal of Certain Defunct and Discontinued Forms

EDGAR will be updated to remove the following obsolete forms from the

¹ See Rule 301 of Regulation S-T.

² EDGAR Release 23.4 will be deployed on [December 18, 2023].

³ Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure, Release No. 33-11216 (July 26, 2023) [88 FR 51896 (Aug. 4, 2023)].

⁴ Modernization of Beneficial Ownership Reporting, Release No. 33-11253 (Oct. 10, 2023) [88 FR 76986 (Nov. 7, 2023)].

⁵ Investment Company Names, Release No. 33-11238A (Sep. 20, 2023) [88 FR 70436 (Oct. 11, 2023)].