



**Billing Code: 4410-19**

**DEPARTMENT OF JUSTICE**

**28 CFR Part 85**

**[Docket No. OAG 156; AG Order No. 3823-2017]**

**Civil Monetary Penalties Inflation Adjustment for 2017**

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Department of Justice is adjusting for inflation the civil monetary penalties assessed or enforced by components of the Department, in accordance with the provisions of the Bipartisan Budget Act of 2015, for penalties assessed after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], whose associated violations occurred after November 2, 2015.

**DATES:** *Effective date:* This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. *Applicability date:* The adjusted civil penalty amounts are applicable only to civil penalties assessed after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], whose associated violations occurred after November 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Robert Hinchman, Senior Counsel, Office of Legal Policy, U.S. Department of Justice, Room 4252 RFK Building, 950 Pennsylvania Avenue, NW, Washington, DC 20530, telephone (202) 514-8059 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**I. Statutory Process for Implementing Annual Inflation Adjustments**

Section 701 of the Bipartisan Budget Act of 2015, Public Law 114-74 (Nov. 2, 2015), titled the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the

“2015 Amendments”), 28 U.S.C. 2461 note, substantially revised the prior provisions of the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, Public Law 101-410 (the “Inflation Adjustment Act”), and substituted a different statutory formula for calculating inflation adjustments on an annual basis.

In accordance with the provisions of the 2015 Amendments, on June 30, 2016 (81 FR 42491), the Department of Justice published an interim rule (“2016 interim rule”) to adjust for inflation the civil monetary penalties assessed by components of the Department after August 1, 2016, whose associated violations occurred after November 2, 2015 (the so-called “catch-up” adjustments). See 28 CFR 85.5. Readers may refer to the Supplementary Information (also known as the preamble) of the Department’s 2016 interim rule for additional background information regarding the statutory authority for adjustments of civil monetary penalty amounts to take account of inflation and the Department’s past implementation of inflation adjustments. After considering the public comments submitted in response to the 2016 interim rule, the Department will finalize the 2016 interim rule.

## **II. Inflation Adjustments Made by This Rule**

The 2015 Amendments also provide for agencies to adjust for inflation their civil penalty amounts by January 15, 2017, and not later than January 15 of each year thereafter. Accordingly, the Department is publishing this final rule to adjust the civil penalty amounts that were most recently adjusted as of August 1, 2016.

This rule provides the current inflation adjustments being made in 2017. This rule adjusts the civil penalty amounts as established in the 2016 interim rule (which added 28 CFR 85.5), rounded to the nearest dollar. This means that the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for

each civil monetary penalty is increased by the cost-of-living adjustment, which is the “percentage (if any) for each civil monetary penalty by which—(A) the Consumer Price Index for the month of October preceding the date of [this] adjustment, exceeds (B) the Consumer Price Index for the month of October 1 year before the month of October referred to in subparagraph (A).” Inflation Adjustment Act, as amended, sec. 5(b)(1), 28 U.S.C. 2461 note.

As provided in the 2015 Amendments, the adjustments made by this rule are based on the Bureau of Labor Statistics’ Consumer Price Index for October 2016.<sup>1</sup> The inflation factor used in calculating the adjustments was provided to all federal agencies in the OMB Memorandum for the Heads of Executive Departments and Agencies M-17-11 (December 16, 2016). [https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11\\_0.pdf](https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf) (last visited December 22, 2016). The applicable inflation factor for this adjustment is 1.01636.

An example of how the adjustment is calculated using this inflation factor is set forth below.

Example:

The Program Fraud Civil Remedies Act penalty was increased to \$10,781 in 2016, in accordance with the catch-up adjustment requirement of the 2015 Amendments. This amount is then multiplied by the inflation factor, as shown below:

$$\$10,781 \times 1.01636 = \$10,957.38$$

When rounded to the nearest dollar, the new penalty is \$10,957.

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<sup>1</sup> For inflation adjustments other than the “initial adjustment” made in the 2016 rule, the adjustment will be determined by the difference in the Consumer Price Index between the October preceding the date of the new adjustment and the October the year before. *See* Public Law 114-74, sec. 701(b)(2)(B) (amending section 5(b) of the Inflation Adjustment Act).

This rule adjusts for inflation the civil monetary penalties assessed by components of the Department of Justice for purposes of the Inflation Adjustment Act, as amended. Other agencies are responsible for the inflation adjustments of certain other civil monetary penalties that the Department's litigating components bring suit to collect. The reader should consult the regulations of those other agencies for inflation adjustments to those penalties.

### **III. Effective Date of Adjusted Civil Penalty Amounts**

The adjusted civil penalty amounts added by this rule are applicable only to civil penalties assessed after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], whose associated violations occurred after November 2, 2015, the date of enactment of the 2015 Amendments.

The penalty amounts set forth in 28 CFR 85.5, as added by the June 30, 2016, interim rule are applicable only to civil penalties assessed after August 1, 2016, and on or before [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], whose associated violations occurred after November 2, 2015. For convenient reference, this rule amends the table in 28 CFR 85.5 to include both the adjusted penalty amounts as added by the 2016 interim rule as well as the new adjusted civil penalty amounts being adopted in this final rule.

Violations occurring on or before November 2, 2015, and assessments made on or before August 1, 2016, whose associated violations occurred after November 2, 2015, will continue to be subject to the civil monetary penalty amounts set forth in the Department's regulations 28 CFR parts 20, 22, 36, 68, 71, 76 and 85 as such regulations existed prior to August 1, 2016 (or as set forth by statute if the amount had not yet been adjusted by regulation prior to August 1, 2016).

### **Statutory and Regulatory Analyses**

### ***Administrative Procedure Act***

The Inflation Adjustment Act, as amended by the 2015 Amendments, provides that for the second adjustment made after the date of enactment of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, and each adjustment thereafter, the head of an agency shall adjust civil monetary penalties and shall make the adjustment notwithstanding 5 U.S.C. 553. *See* Public Law 114-74, sec. 701(b)(1)(D) (amending section 4(b)(2) of the Inflation Adjustment Act). Accordingly, this rule is being issued as a final rule without prior notice and public comment, and without a 30-day delayed effective date.

### ***Regulatory Flexibility Act***

Only those entities that are determined to have violated federal law and regulations would be affected by the increase in the civil penalty amounts made by this rule. A Regulatory Flexibility Act analysis is not required for this rule because publication of a notice of proposed rulemaking was not required. *See* 5 U.S.C. 603(a).

### ***Executive Orders 12866 and 13563 – Regulatory Review***

This final rule has been drafted in accordance with Executive Order 12866, “Regulatory Planning and Review,” section 1(b), The Principles of Regulation, and in accordance with Executive Order 13563, “Improving Regulation and Regulatory Review” section 1, General Principles of Regulation. Executive Orders 12866 and 13563 direct agencies, in certain circumstances, to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

The Department of Justice has determined that this rule is not a “significant regulatory

action” under Executive Order 12866, Regulatory Planning and Review, section 3(f), and, accordingly, this rule has not been reviewed by the Office of Management and Budget. This final rule implements the 2015 Amendments by making an across-the-board adjustment of the civil penalty amounts to account for inflation since the adoption of the 2016 interim rule. The 2016 interim rule itself was determined not to be a significant regulatory action under Executive Order 12866.

***Executive Order 13132 – Federalism***

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

***Executive Order 12988 – Civil Justice Reform***

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

***Unfunded Mandates Reform Act of 1995***

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

***Congressional Review Act***

This rule is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804. It will not result in an annual effect on the economy of \$100 million or more; a major

increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

### **List of Subjects in 28 CFR Part 85**

Administrative practice and procedure, Penalties.

Accordingly, for the reasons set forth in the preamble, chapter I of title 28 of the Code of Federal Regulations is amended as follows:

### **PART 85—CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT**

1. The authority citation for part 85 continues to read as follows:

**Authority:** 5 U.S.C. 301, 28 U.S.C. 503; Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321; Pub. L. 114-74, section 701, 28 U.S.C. 2461 note.

2. Section 85.5 is revised to read as follows:

#### **§ 85.5 Adjustments to penalties for violations occurring after November 2, 2015.**

For civil penalties assessed after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department are adjusted as set forth in the fifth column of the following table. For civil penalties assessed after August 1, 2016, and on or before [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], whose associated violations occurred after November 2, 2015, the civil monetary penalties provided by law within the jurisdiction of the Department are those set forth in the fourth column of the following table.

U.S.C. Citation	Name/ Description	CFR Citation	DOJ Penalty assessed after 8/1/2016 (\$) <sup>1</sup>	DOJ Penalty assessed after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] (\$) <sup>2</sup>
ATF				
18 U.S.C. 922(t)(5)	Brady Law - Nat'l Instant Criminal Check System; Transfer of firearm without checking NICS		8,162	8,296
18 U.S.C. 924(p)	Child Safety Lock Act; Secure gun storage or safety device, violation		2,985	3,034
Civil Division				
12 USC 1833a(b)(1)	Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) Violation	28 CFR 85.3(a)(6)	1,893,610	1,924,589
12 U.S.C. 1833a(b)(2)	FIRREA Violation (continuing) (per day)	28 CFR 85.3(a)(7)	1,893,610	1,924,589
12 U.S.C. 1833a(b)(2)	FIRREA Violation (continuing)	28 CFR 85.3(a)(7)	9,468,050	9,622,947
22 U.S.C. 2399b(a)(3)(A)	Foreign Assistance Act; Fraudulent Claim for Assistance (per act)	28 CFR 85.3(a)(8)	5,500	5,590
31 U.S.C. 3729(a)	False Claims Act <sup>3</sup> ; Violations	28 CFR 85.3(a)(9)	Min. 10,781 Max. 21,563	Min. 10,957 Max. 21,916
31 U.S.C. 3802(a)(1)	Program Fraud Civil Remedies Act; Violations Involving False Claim (per claim)	28 CFR 71.3(a)	10,781	10,957
31 U.S.C. 3802(a)(2)	Program Fraud Civil Remedies Act; Violation Involving False Statement (per statement)	28 CFR 71.3(f)	10,781	10,957
40 U.S.C. 123(a)(1)(A)	Federal Property and Administrative Services Act; Violation Involving Surplus Government Property (per act)	28 CFR 85.3(a)(12)	5,500	5,590
41 U.S.C. 8706(a)(1)(B)	Anti-Kickback Act; Violation Involving Kickbacks <sup>4</sup> (per occurrence)	28 CFR 85.3(a)(13)	21,563	21,916
18 U.S.C. 2723(b)	Driver's Privacy Protection Act of 1994; Prohibition on Release and Use of Certain Personal Information from State Motor Vehicle Records - Substantial Non-compliance (per day)		7,954	8,084
18 U.S.C. 216(b)	Ethics Reform Act of 1989; Penalties for Conflict of Interest Crimes <sup>5</sup> (per violation)	28 CFR 85.3(c)	94,681	96,230
41 U.S.C. 2105(b)(1)	Office of Federal Procurement Policy Act <sup>6</sup> ; Violation by an individual (per violation)		98,935	100,554
41 U.S.C. 2105(b)(2)	Office of Federal Procurement Policy Act <sup>6</sup> ; Violation by an organization (per violation)		989,345	1,005,531
42 U.S.C. 5157(d)	Disaster Relief Act of 1974 <sup>7</sup> ; Violation (per violation)		12,500	12,705
Civil Rights Division (excluding immigration-related penalties)				
18 U.S.C. 248(c)(2)(B)(i)	Freedom of Access to Clinic Entrances Act of 1994 ("FACE Act"); Nonviolent physical obstruction, first violation	28 CFR 85.3(b)(1)(i)	15,909	16,169
18 U.S.C. 248(c)(2)(B)(ii)	FACE Act; Nonviolent physical obstruction, subsequent violation	28 CFR 85.3(b)(1)(ii)	23,863	24,253

18 U.S.C. 248(c)(2)(B)(i)	FACE Act; Violation other than a nonviolent physical obstruction, first violation	28 CFR 85.3(b)(2)(i)	23,863	24,253
18 U.S.C. 248(c)(2)(B)(ii)	FACE Act; Violation other than a nonviolent physical obstruction, subsequent violation	28 CFR 85.3(b)(2)(ii)	39,772	40,423
42 U.S.C. 3614(d)(1)(C)(i)	Fair Housing Act of 1968; first violation	28 CFR 85.3(b)(3)(i)	98,935	100,554
42 U.S.C. 3614(d)(1)(C)(ii)	Fair Housing Act of 1968; subsequent violation	28 CFR 85.3(b)(3)(ii)	197,869	201,106
42 U.S.C. 12188(b)(2)(C)(i)	Americans With Disabilities Act; Public accommodations for individuals with disabilities, first violation	28 CFR 36.504(a)(3)(i)	89,078	90,535
42 U.S.C. 12188(b)(2)(C)(ii)	Americans With Disabilities Act; Public accommodations for individuals with disabilities, subsequent violation	28 CFR 36.504(a)(3)(ii)	178,156	181,071
50 U.S.C. App. 597(b)(3)	Servicemembers Civil Relief Act of 2003; first violation	28 CFR 85.3(b)(4)(i)	59,810	60,788
50 U.S.C. App. 597(b)(3)	Servicemembers Civil Relief Act of 2003; subsequent violation	28 CFR 85.3(b)(4)(ii)	119,620	121,577
Criminal Division				
18 U.S.C. 983(h)(1)	Civil Asset Forfeiture Reform Act of 2000; Penalty for Frivolous Assertion of Claim		Min. 342 Max. 6,834	Min. 348 Max. 6,946
18 U.S.C. 1956(b)	Money Laundering Control Act of 1986; Violation <sup>8</sup>		21,563	21,916
DEA				
21 U.S.C. 844a(a)	Anti-Drug Abuse Act of 1988; Possession of small amounts of controlled substances (per violation)	28 CFR 76.3(a)	19,787	20,111
21 U.S.C. 961(1)	Controlled Substance Import Export Act; Drug abuse, import or export	28 CFR 85.3(d)	68,750	69,875
21 U.S.C. 842(c)(1)(A)	Controlled Substances Act ("CSA"); Violations of 842(a) - other than (5), (10) and (16) - Prohibited acts re: controlled substances (per violation)		62,500	63,523
21 U.S.C. 842(c)(1)(B)	CSA; Violations of 842(a)(5) and (10) - Prohibited acts re: controlled substances		14,502	14,739
21 U.S.C. 842(c)(1)(C)	CSA; Violation of 825(e) by importer, exporter, manufacturer, or distributor - False labeling of anabolic steroids (per violation)		500,855	509,049
21 U.S.C. 842(c)(1)(D)	CSA; Violation of 825(e) at the retail level - False labeling of anabolic steroids (per violation)		1,002	1,018
21 U.S.C. 842(c)(2)(C)	CSA; Violation of 842(a)(11) by a business - Distribution of laboratory supply with reckless disregard <sup>9</sup>		375,613	381,758
21 U.S.C. 856(d)	Illicit Drug Anti-Proliferation Act of 2003; Maintaining drug-involved premises <sup>10</sup>		321,403	326,661
Immigration-Related Penalties				
8 U.S.C. 1324a(e)(4)(A)(i)	Immigration Reform and Control Act of 1986 ("IRCA"); Unlawful employment of aliens, first order (per unauthorized alien)	28 CFR 68.52(c)(1)(i)	Min. 539 Max. 4,313	Min. 548 Max. 4,384
8 U.S.C. 1324a(e)(4)(A)(ii)	IRCA; Unlawful employment of aliens, second order (per such alien)	28 CFR 68.52(c)(1)(ii)	Min. 4,313 Max. 10,781	Min. 4,384 Max. 10,957
8 U.S.C. 1324a(e)(4)(A)(iii)	IRCA; Unlawful employment of aliens, subsequent order (per such alien)	28 CFR 68.52(c)(1)(iii)	Min. 6,469 Max. 21,563	Min. 6,575 Max. 21,916
8 U.S.C. 1324a(e)(5)	IRCA; Paperwork violation (per relevant individual)	28 CFR 68.52(c)(5)	Min. 216 Max. 2,156	Min. 220 Max. 2,191

8 U.S.C. 1324a (note)	IRCA; Violation relating to participating employer's failure to notify of final nonconfirmation of employee's employment eligibility (per relevant individual)	28 CFR 68.52(c)(6)	Min. 751 Max. 1,502	Min. 763 Max. 1,527
8 U.S.C. 1324a(g)(2)	IRCA; Violation/prohibition of indemnity bonds (per violation)	28 CFR 68.52(c)(7)	2,156	2,191
8 U.S.C. 1324b(g)(2)(B)(iv)(I)	IRCA; Unfair immigration-related employment practices, first order (per individual discriminated against)	28 CFR 68.52(d)(1)(viii)	Min. 445 Max. 3,563	Min. 452 Max. 3,621
8 U.S.C. 1324b(g)(2)(B)(iv)(II)	IRCA; Unfair immigration-related employment practices, second order (per individual discriminated against)	28 CFR 68.52(d)(1)(ix)	Min. 3,563 Max. 8,908	Min. 3,621 Max. 9,054
8 U.S.C. 1324b(g)(2)(B)(iv)(III)	IRCA; Unfair immigration-related employment practices, subsequent order (per individual discriminated against)	28 CFR 68.52(d)(1)(x)	Min. 5,345 Max. 17,816	Min. 5,432 Max. 18,107
8 U.S.C. 1324b(g)(2)(B)(iv)(IV)	IRCA; Unfair immigration-related employment practices, document abuse (per individual discriminated against)	28 CFR 68.52(d)(1)(xii)	Min. 178 Max. 1,782	Min. 181 Max. 1,811
8 U.S.C. 1324c(d)(3)(A)	IRCA; Document fraud, first order -- for violations described in USC 1324c(a)(1)-(4) (per document)	28 CFR 68.52(e)(1)(i)	Min. 445 Max. 3,563	Min. 452 Max. 3,621
8 U.S.C. 1324c(d)(3)(B)	IRCA; Document fraud, subsequent order -- for violations described in USC 1324c(a)(1)-(4) (per document)	28 CFR 68.52(e)(1)(iii)	Min. 3,563 Max. 8,908	Min. 3,621 Max. 9,054
8 U.S.C. 1324c(d)(3)(A)	IRCA; Document fraud, first order -- for violations described in USC 1324c(a)(5)-(6) (per document)	28 CFR 68.52(e)(1)(ii)	Min. 376 Max. 3,005	Min. 382 Max. 3,054
8 U.S.C. 1324c(d)(3)(B)	IRCA; Document fraud, subsequent order -- for violations described in USC 1324c(a)(5)-(6) (per document)	28 CFR 68.52(e)(1)(iv)	Min. 3,005 Max. 7,512	Min. 3,054 Max. 7,635
FBI				
49 U.S.C. 30505(a)	National Motor Vehicle Title Identification System; Violation (per violation)		1,591	1,617
Office of Justice Programs				
42 U.S.C. 3789g(d)	Confidentiality of information; State and Local Criminal History Record Information Systems - Right to Privacy Violation	28 CFR 20.25	27,500	27,950

<sup>1</sup> The figures set forth in the fourth column represent the civil penalty amounts as last adjusted by the Department of Justice, effective August 1, 2016.

<sup>2</sup> All figures set forth in this table are maximum penalties, unless otherwise indicated.

<sup>3</sup> Section 3729(a)(1) of Title 31 provides that any person who violates this section is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, plus 3 times the amount of damages which the Government sustains because of the act of that person. 31 U.S.C. 3729(a)(1) (2015). Section 3729(a)(2) permits the court to reduce the damages under certain circumstances to not less than 2 times the amount of damages which the Government sustains because of the act of that person. *Id.* section 3729(a)(2). The adjustment made by this regulation is only applicable to the specific statutory penalty amounts stated in subsection (a)(1), which is only one component of the civil penalty imposed under section 3729(a)(1).

<sup>4</sup> Section 8706(a)(1) of Title 41 provides that the Federal Government in a civil action may recover from a person that knowingly engages in conduct prohibited by section 8702 of Title 44 a civil penalty equal to twice the amount of each kickback involved in the violation and not more than \$10,000 for each occurrence of prohibited conduct. 41 U.S.C. 8706(a)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (a)(1)(B), which is only one component of the civil penalty imposed under section 8706.

<sup>5</sup> Section 216(b) of Title 18 provides that the civil penalty should be no more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. 18 U.S.C. 216(b) (2015). Therefore, the adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (b), which is only one aspect of the possible civil penalty imposed under section 216(b).

<sup>6</sup> Section 2105(b) of Title 41 provides that the Attorney General may bring a civil action in an appropriate district court of the United States against a person that engages in conduct that violates section 2102, 2103, or 2104 of Title 41. 41 U.S.C. 2105(b) (2015). Section 2105(b) further provides that on proof of that conduct by a preponderance of the evidence, an individual is liable to the Federal Government for a civil penalty of not more than \$50,000 for each violation plus twice the amount of compensation that the individual received or offered for the prohibited conduct, and an organization is liable to the Federal Government for a civil penalty of not more than \$500,000 for each violation plus twice the amount of compensation that the organization received or offered for the prohibited conduct. *Id.* section 2105(b). The adjustments made by this regulation are only applicable to the specific statutory penalty amounts stated in subsections (b)(1) and (b)(2), which are each only one component of the civil penalties imposed under sections 2105(b)(1) and (b)(2).

<sup>7</sup> The Attorney General has authority to bring a civil action when a person has violated or is about to violate a provision under this statute. 42 U.S.C. 5157(b) (2015). The Federal Emergency Management Agency has promulgated regulations regarding this statute and has adjusted the penalty in its regulation. 44 CFR 206.14(d) (2015). The Department of Health and Human Services (HHS) has also promulgated a regulation regarding the penalty under this statute. 42 CFR 38.8 (2015).

<sup>8</sup> Section 1956(b)(1) of Title 18 provides that whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or section 1957, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of the value of the property, funds, or monetary instruments involved in the transaction; or \$10,000. 18 U.S.C. 1956(b)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (b)(1)(B), which is only one aspect of the possible civil penalty imposed under section 1956(b).

<sup>9</sup> Section 842(c)(2)(C) of Title 21 provides that in addition to the penalties set forth elsewhere in the subchapter or subchapter II of the chapter, any business that violates paragraph (11) of subsection (a) of the section shall, with respect to the first such violation, be subject to a civil penalty of not more than \$250,000, but shall not be subject to criminal penalties under the section, and shall, for any succeeding violation, be subject to a civil fine of not more than \$250,000 or double the last previously imposed penalty, whichever is greater. 21 U.S.C. 842(c)(2)(C) (2015). The adjustment made by this regulation regarding the penalty for a succeeding violation is only applicable to the specific statutory penalty amount stated in subsection (c)(2)(C), which is only one aspect of the possible civil penalty for a succeeding violation imposed under section 842(c)(2)(C).

<sup>10</sup> Section 856(d)(1) of Title 21 provides that any person who violates subsection (a) of the section shall be subject to a civil penalty of not more than the greater of \$250,000; or 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person. 21 U.S.C. 856(d)(1) (2015). The adjustment made by this regulation is only applicable to the specific statutory penalty amount stated in subsection (d)(1)(A), which is only one aspect of the possible civil penalty imposed under section 856(d)(1).

Dated: January 13, 2017.

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Loretta E. Lynch,  
Attorney General.

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