

**6714-01-P**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**RIN 3064-ZA05**

**Notice of Inflation Adjustments for Civil Money Penalties**

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Notice of Monetary Penalties 2019.

**SUMMARY:** The Federal Deposit Insurance Corporation is providing notice of its 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 amounts of civil money penalties in this notice are applicable to penalties assessed after January 15, 2019, for conduct occurring on or after November 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Graham N. Rehrig, Senior Attorney, Legal Division, (202) 898-3829, [grehrig@fdic.gov](mailto:grehrig@fdic.gov); or Sydney Mayer, Attorney, Legal Division, (202) 898-3669, [smayer@fdic.gov](mailto:smayer@fdic.gov); Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** This notice announces changes to the maximum amount of each civil money penalty (CMP) within the Federal Deposit Insurance Corporation's (FDIC) jurisdiction to administer to account for inflation under the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Adjustment Act),<sup>1</sup> as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of

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<sup>1</sup> Pub. L. 101-410, 104 Stat. 890, codified at 28 U.S.C. 2461 note.

2015 (2015 Adjustment Act).<sup>2</sup> Under the 1990 Adjustment Act, as amended, federal agencies must make annual adjustments to the maximum amount of each CMP the agency administers. 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.

Agencies are required to publish their CMPs, adjusted under the multiplier provided by the OMB, by January 15 of the applicable year. Agencies, like the FDIC, that have codified the statutory formula for making the CMP adjustments may make annual inflation adjustments by providing notice in the *Federal Register*.<sup>3</sup>

On December 14, 2018, the OMB issued guidance to affected agencies on implementing the required annual adjustment, which guidance included the relevant inflation multiplier.<sup>4</sup> The FDIC has applied that multiplier to the maximum CMPs allowable in 2018 for FDIC-supervised institutions to calculate the maximum amount of CMPs that may be assessed by the FDIC in 2019.<sup>5</sup> There were no new statutory CMPs administered by the FDIC during 2018.

The following charts provide the inflation-adjusted maximum CMP amounts for use after January 15, 2019—the effective date of the 2019 annual adjustments—under 12 CFR part 308, for conduct occurring on or after November 2, 2015:

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| <b>MAXIMUM CIVIL MONEY PENALTY AMOUNTS</b> |
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<sup>2</sup> Pub. L. 114–74, § 701(b), 129 Stat. 599, codified at 28 U.S.C. 2461 note.

<sup>3</sup> See Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum No. M-19-04, *Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* 4 (2018), [https://www.whitehouse.gov/wp-content/uploads/2017/11/m\\_19\\_04.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf) (“OMB Guidance”).

<sup>4</sup> See OMB Guidance at 1 (providing an inflation multiplier of 1.02522).

<sup>5</sup> Penalties assessed for violations occurring prior to November 2, 2015, will be subject to the maximum amounts set forth in the FDIC’s regulations in effect prior to the enactment of the 2015 Adjustment Act.

| U.S. Code Citation                                    | Current Maximum CMP<br>(Through January 14,<br>2019) | Adjusted Maximum CMP <sup>6</sup><br>(Beginning January 15,<br>2019) |
|---|--|--|
| 12 U.S.C. 1464(v)<br>Tier One CMP <sup>7</sup>        | \$3,928  | \$4,027  |
| Tier Two CMP  | \$39,278   | \$40,269   |
| Tier Three CMP <sup>8</sup>                           | \$1,963,870  | \$2,013,399  |
| 12 U.S.C. 1467(d)                                     | \$9,819  | \$10,067   |
| 12 U.S.C. 1817(a)<br>Tier One CMP <sup>9</sup>        | \$3,928  | \$4,027  |
| Tier Two CMP  | \$39,278   | \$40,269   |
| Tier Three<br>CMP <sup>10</sup>                       | \$1,963,870  | \$2,013,399  |
| 12 U.S.C. 1817(c)<br>Tier One CMP                     | \$3,591  | \$3,682  |
| Tier Two CMP  | \$35,904   | \$36,809   |
| Tier Three<br>CMP <sup>11</sup>                       | \$1,795,216  | \$1,840,491  |
| 12 U.S.C. 1817(j)(16)<br>Tier One CMP                 | \$9,819  | \$10,067   |
| Tier Two CMP  | \$49,096   | \$50,334   |
| Tier Three<br>CMP <sup>12</sup>                       | \$1,963,870  | \$2,013,399  |
| 12 U.S.C.<br>1818(i)(2) <sup>13</sup><br>Tier One CMP | \$9,819  | \$10,067   |
| Tier Two CMP  | \$49,096   | \$50,334   |
| Tier Three<br>CMP <sup>14</sup>                       | \$1,963,870  | \$2,013,399  |
| 12 U.S.C. 1820(e)(4)                                  | \$8,977  | \$9,203  |
| 12 U.S.C. 1820(k)(6)                                  | \$323,027  | \$331,174  |

<sup>6</sup> The maximum penalty amount is per day, unless otherwise indicated.

<sup>7</sup> 12 U.S.C. 1464(v) provides the maximum CMP amounts for the late filing of certain Call Reports. In 2012, however, the FDIC issued regulations that further subdivided these amounts based upon the size of the institution and the lateness of the filing. See 77 FR 74573, 74576-78 (Dec. 17, 2012), to be re-codified at 12 CFR 308.132(e)(1). These adjusted subdivided amounts are found at the end of this chart.

<sup>8</sup> The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

<sup>9</sup> 12 U.S.C. 1817(a) provides the maximum CMP amounts for the late filing of certain Call Reports. In 1991, however, the FDIC issued regulations that further subdivided these amounts based upon the size of the institution and the lateness of the filing. See 56 FR 37968, 37992-93 (Aug. 9, 1991), to be re-codified at 12 CFR 308.132(e)(1). These adjusted subdivided amounts are found at the end of this chart.

<sup>10</sup> The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

<sup>11</sup> The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

<sup>12</sup> The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

<sup>13</sup> These amounts also apply to CMPs in statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2601, 2804(b), 3108(b), 3349(b), 4009(a), 4309(a), 4717(b); 15 U.S.C. 1607(a), 1681s(b), 1691(b), 1691c(a), 1693o(a); and 42 U.S.C. 3601.

<sup>14</sup> The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

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| 12 U.S.C. 1828(a)(3)   | \$122  | \$125  |
| 12 U.S.C. 1828(h) <sup>15</sup><br>For assessments<br>< \$10,000   | \$122  | \$125  |
| 12 U.S.C. 1829b(j)   | \$20,521   | \$21,039   |
| 12 U.S.C. 1832(c)  | \$2,852  | \$2,924  |
| 12 U.S.C. 1884   | \$285  | \$292  |
| 12 U.S.C. 1972(2)(F)<br>Tier One CMP<br>Tier Two CMP<br>Tier Three<br>CMP <sup>16</sup>  | \$9,819<br>\$49,096<br>\$1,963,870                                     | \$10,067<br>\$50,334<br>\$2,013,399                                    |
| 12 U.S.C. 3909(d)  | \$2,443  | \$2,505  |
| 15 U.S.C. 78u-2<br>Tier One CMP<br>(individuals)<br>Tier One CMP<br>(others)<br>Tier Two CMP<br>(individuals)<br>Tier Two CMP<br>(others)<br>Tier Three CMP<br>(individuals)<br>Tier Three CMP<br>(others) | \$9,239<br>\$92,383<br>\$92,383<br>\$461,916<br>\$184,767<br>\$923,831 | \$9,472<br>\$94,713<br>\$94,713<br>\$473,566<br>\$189,427<br>\$947,130 |
| 15 U.S.C. 1639e(k)<br>First violation<br>Subsequent<br>violations  | \$11,279<br>\$22,556   | \$11,563<br>\$23,125   |
| 31 U.S.C. 3802   | \$11,181   | \$11,463   |
| 42 U.S.C. 4012a(f)   | \$2,133  | \$2,187  |

| <b>CFR Citation</b>                             | <b>Current Presumptive<br/>CMP<br/>(Through January 14,<br/>2019)</b> | <b>Adjusted Presumptive<br/>CMP<br/>(Beginning January 15,<br/>2019)</b> |
|---|---|--|
| 12 CFR<br>308.132(e)(1)(i)<br>Institutions with |   |  |

<sup>15</sup> The \$122-per-day maximum CMP under 12 U.S.C. 1828(h), for failure or refusal to pay any assessment, applies only when the assessment is less than \$10,000. When the amount of the assessment is \$10,000 or more, the maximum CMP under section 1828(h) is 1 percent of the amount of the assessment for each day that the failure or refusal continues.

<sup>16</sup> The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.



Dated at Washington, DC, on December 21, 2018.  
Federal Deposit Insurance Corporation.

**Valerie Best,**  
*Assistant Executive Secretary.*

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