



## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Part 1022

#### Fair Credit Reporting Act Disclosures

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Final rule; official interpretation.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is issuing this final rule amending an appendix for Regulation V, which implements the Fair Credit Reporting Act (FCRA). The Bureau is required to calculate annually the dollar amount of the maximum allowable charge for disclosures by a consumer reporting agency to a consumer pursuant to FCRA section 609; this final rule establishes the maximum allowable charge for the 2021 calendar year.

**DATES:** This final rule is effective January 1, 2021.

**FOR FURTHER INFORMATION CONTACT:** Willie Williams, Paralegal Specialist; Rachel Ross, Attorney-Advisor; Office of Regulations, at (202) 435-7700. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

#### SUPPLEMENTARY INFORMATION:

The Bureau is amending appendix O for Regulation V, which implements the FCRA, to establish the maximum allowable charge for disclosures by a consumer reporting agency to a consumer for 2021. The maximum allowable charge will be \$13.00 for 2021.

#### I. Background

Under section 609 of the FCRA, a consumer reporting agency must, upon a consumer's request, disclose to the consumer information in the consumer's file.<sup>1</sup> Section 612(a) of the FCRA gives consumers the right to a free file disclosure upon request once every 12 months from the nationwide consumer reporting agencies and nationwide specialty consumer reporting

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<sup>1</sup> 15 U.S.C. 1681g.

agencies.<sup>2</sup> Section 612 of the FCRA also gives consumers the right to a free file disclosure under certain other, specified circumstances.<sup>3</sup> Where the consumer is not entitled to a free file disclosure, section 612(f)(1)(A) of the FCRA provides that a consumer reporting agency may impose a reasonable charge on a consumer for making a file disclosure. Section 612(f)(1)(A) of the FCRA provides that the charge for such a disclosure shall not exceed \$8.00 and shall be indicated to the consumer before making the file disclosure.<sup>4</sup>

Section 612(f)(2) of the FCRA also states that the \$8.00 maximum amount shall increase on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents.<sup>5</sup> Such increases are based on the Consumer Price Index for All Urban Consumers (CPI-U), which is the most general Consumer Price Index and covers all urban consumers and all items.

## **II. Adjustment**

For 2021, the ceiling on allowable charges under section 612(f) of the FCRA will be \$13.00, an increase of fifty cents from 2020. The Bureau is using the \$8.00 amount set forth in section 612(f)(1)(A)(i) of the FCRA as the baseline for its calculation of the increase in the ceiling on reasonable charges for certain disclosures made under section 609 of the FCRA. Since the effective date of section 612(a) was September 30, 1997, the Bureau calculated the proportional increase in the CPI-U from September 1997 to September 2020. The Bureau then determined what modification, if any, from the original base of \$8.00 should be made effective for 2021, given the requirement that fractional changes be rounded to the nearest fifty cents.

Between September 1997 and September 2020, the CPI-U increased by 61.464 percent from an index value of 161.2 in September 1997 to a value of 260.28 in September 2020. An increase of 61.464 percent in the \$8.00 base figure would lead to a figure of \$12.92. However,

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<sup>2</sup> 15 U.S.C. 1681j(a).

<sup>3</sup> 15 U.S.C. 1681j(b)-(d). The maximum allowable charge announced by the Bureau does not apply to requests made under section 612(a)-(d) of the FCRA. The charge does apply when a consumer who orders a file disclosure has already received a free annual file disclosure and does not otherwise qualify for an additional free file disclosure.

<sup>4</sup> 15 U.S.C. 1681j(f)(1)(A).

<sup>5</sup> 15 U.S.C. 1681j(f)(2).

because the statute directs that the resulting figure be rounded to the nearest \$0.50, the maximum allowable charge is \$13.00. The Bureau therefore determines that the maximum allowable charge for the year 2021 will increase to \$13.00.

### **III. Procedural Requirements**

#### *A. Administrative Procedure Act*

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.<sup>6</sup> Pursuant to this final rule, in Regulation V, appendix O is amended to update the maximum allowable charge for 2021 under section 612(f). The amendments in this final rule are technical and non-discretionary, as they merely apply the method previously established in Regulation V for determining adjustments to the thresholds. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. The amendments therefore are adopted in final form.

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d). At a minimum, the Bureau believes the amendments made by this rule fall under the third exception to section 553(d). The Bureau finds that there is good cause to make this rule effective on January 1, 2021. The amendments made by this rule are technical and non-discretionary, and apply the method previously established in the Bureau's regulations for automatic adjustments to the threshold.

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<sup>6</sup> 5 U.S.C. 553(b)(B).

### *B. Regulatory Flexibility Act*

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.<sup>7</sup>

### *C. Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1995,<sup>8</sup> the Bureau reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

### *D. Congressional Review Act*

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule taking effect. The Office of Information and Regulatory Affairs (OIRA) has designated this rule as not a “major rule” as defined by 5 U.S.C. 804(2).

## **IV. Signing Authority**

The Acting Associate Director for Research, Markets and Regulations, Dan S. Sokolov, having reviewed and approved this document, is delegating the authority to electronically sign this document to Grace Feola, a Bureau Federal Register Liaison, for purposes of publication in the *Federal Register*.

## **List of Subjects in 12 CFR Part 1022**

Banks, banking, Consumer protection, Credit unions, Holding companies, National banks, Privacy, Reporting and recordkeeping requirements, Savings associations.

## **Authority and Issuance**

For the reasons set forth in the preamble, the Bureau amends Regulation V, 12 CFR part 1022, as set forth below:

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<sup>7</sup> 5 U.S.C. 603(a), 604(a).

<sup>8</sup> 44 U.S.C. 3506; 5 CFR part 1320.

## **PART 1022—FAIR CREDIT REPORTING (REGULATION V)**

1. The authority citation for part 1022 continues to read as follows:

**Authority:** 12 U.S.C. 5512, 5581; 15 U.S.C. 1681a, 1681b, 1681c, 1681c-1, 1681e, 1681g, 1681i, 1681j, 1681m, 1681s, 1681s-2, 1681s-3, and 1681t; Sec. 214, Pub. L. 108-159, 117 Stat. 1952.

2. Appendix O is revised to read as follows:

### **Appendix O to Part 1022—Reasonable Charges for Certain Disclosures**

Section 612(f) of the FCRA, 15 U.S.C. 1681j(f), directs the Bureau to increase the maximum allowable charge a consumer reporting agency may impose for making a disclosure to the consumer pursuant to section 609 of the FCRA, 15 U.S.C. 1681g, on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents. The Bureau will publish notice of the maximum allowable charge each year by amending this appendix. For calendar year 2021, the maximum allowable charge is \$13.00. For historical purposes:

1. For calendar year 2012, the maximum allowable disclosure charge was \$11.50.
2. For calendar year 2013, the maximum allowable disclosure charge was \$11.50.
3. For calendar year 2014, the maximum allowable disclosure charge was \$11.50.
4. For calendar year 2015, the maximum allowable disclosure charge was \$12.00.
5. For calendar year 2016, the maximum allowable disclosure charge was \$12.00.
6. For calendar year 2017, the maximum allowable disclosure charge was \$12.00.
7. For calendar year 2018, the maximum allowable disclosure charge was \$12.00.
8. For calendar year 2019, the maximum allowable disclosure charge was \$12.50.
9. For calendar year 2020, the maximum allowable disclosure charge was \$12.50.
10. For calendar year 2021, the maximum allowable disclosure charge is \$13.00.

Dated: December 18, 2020.

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**Grace Feola,**

*Federal Register Liaison, Bureau of Consumer Financial Protection.*

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