

Pursuant to section 21B of the Securities Exchange Act of 1934 (Exchange Act) (15 U.S.C. 78u-2), civil money penalties may be assessed for violations of certain provisions of the Exchange Act, where such penalties are in the public interest. Tier One civil money penalties may be assessed pursuant to 15 U.S.C. 78u-2(b)(1) in an amount not to exceed \$9,239 for a natural person or \$92,383 for any other person for violations set forth in 15 U.S.C. 78u-2(a). Tier Two civil money penalties may be assessed pursuant to 15 U.S.C. 78u-2(b)(2) in an amount not to exceed—for each violation set forth in 15 U.S.C. 78u-2(a)—\$92,383 for a natural person or \$461,916 for any other person if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement. Tier Three civil money penalties may be assessed pursuant to 15 U.S.C. 78u-2(b)(3) for each violation set forth in 15 U.S.C. 78u-2(a), in an amount not to exceed \$184,767 for a natural person or \$923,831 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and such act or omission directly or indirectly resulted in substantial losses, or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

(16) *Civil money penalties assessed pursuant to 15 U.S.C. 1639e(k) for appraisal independence violations.* Pursuant to section 1472(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Appraisal Independence Rule) (15 U.S.C. 1639e(k)), civil money penalties may be assessed for an initial violation of the Appraisal Independence Rule in an amount not to exceed \$11,279 for each day during which the violation continues and, for subsequent violations, \$22,556 for each day during which the violation continues.

(17) *Civil money penalties assessed for false claims and statements pursuant to 31 U.S.C. 3802.* Pursuant to the Program Fraud Civil Remedies Act (31 U.S.C. 3802), civil money penalties of not more than \$11,181 per claim or statement may be assessed for violations involving false claims and statements.

(18) *Civil money penalties assessed for violations of 42 U.S.C. 4012a(f).* Pursuant to the Flood Disaster Protection Act (FDPA) (42 U.S.C. 4012a(f)), civil money penalties may be assessed against any regulated lending institution that engages in a pattern or practice of violations of the FDPA in an amount not to exceed \$2,133 per violation.

Dated at Washington, DC on December 19, 2017.

By order of the Board of Directors.

Valerie J. Best,
Assistant Executive Secretary.

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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1083

Civil Penalty Inflation Adjustments

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is adjusting for inflation the maximum amount of each civil penalty within the Bureau's jurisdiction. These adjustments are required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act). The inflation adjustments mandated by the Inflation Adjustment Act serve to maintain the deterrent effect of civil penalties and to promote compliance with the law.

DATES: This final rule is effective January 15, 2018.

FOR FURTHER INFORMATION CONTACT: Monique Chenault, Paralegal Specialist, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552, at (202) 435-7700.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990,¹ as amended by the Debt Collection Improvement Act of 1996² and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act),³ directs Federal agencies to adjust for inflation the civil penalty amounts within their jurisdiction not later than July 1, 2016, and then not later than January 15 every year thereafter.⁴ 28

¹ Public Law 101-410, 104 Stat. 890.

² Public Law 104-134, section 31001(s)(1), 110 Stat. 1321, 1321-373.

³ Public Law 114-74, section 701, 129 Stat. 584, 599.

⁴ Section 1301(a) of the Federal Reports Elimination Act of 1998, Public Law 105-362, 112 Stat. 3293, also amended the Inflation Adjustment Act by striking section 6, which contained annual

U.S.C. 2461 note. Each agency was required to make the 2016 one-time catch-up adjustments through an interim final rule published in the **Federal Register**. On June 14, 2016, the Bureau published its interim final rule to make the initial catch-up adjustments to civil penalties within the Bureau's jurisdiction.⁵ The June 2016 interim final rule created a new part 1083 and in § 1083.1 established the inflation-adjusted maximum amounts for each civil penalty within the Bureau's jurisdiction.⁶ The Inflation Adjustment Act also requires subsequent adjustments to be made annually, not later than January 15, and notwithstanding section 553 of the Administrative Procedure Act (APA).⁷

Specifically, Federal agencies are directed to adjust annually each civil penalty provided by law within the jurisdiction of the agency by the "cost-of-living adjustment."⁸ For annual adjustments after the initial catch up adjustments, the "cost-of-living adjustment" is defined as the percentage (if any) by which the Consumer Price Index for All Urban Consumers (CPI-U) for the month of October preceding the date of the adjustment, exceeds the CPI-U for October of the prior year.⁹ The Director of the Office of Management and Budget (OMB) is required to issue guidance (OMB Guidance) every year by December 15 to agencies on implementing the annual civil penalty inflation adjustments.¹⁰ Pursuant to the Inflation Adjustment Act and OMB Guidance, agencies must apply the multiplier reflecting the "cost-of-living adjustment" to the current penalty amount and then round that amount to the nearest dollar to determine the annual adjustments.¹¹

For the 2018 annual adjustment, the multiplier reflecting the "cost-of-living

reporting requirements, and redesignating section 7 as section 6, but did not alter the civil penalty adjustment requirements.

⁵ 81 FR 38569 (June 14, 2016). Although the Bureau was not obligated to solicit comments for the interim final rule, the Bureau invited public comment and received none.

⁶ See 12 CFR 1083.1.

⁷ Inflation Adjustment Act section 4, *codified* at 28 U.S.C. 2461 note.

⁸ Inflation Adjustment Act sections 4 and 5, *codified* at 28 U.S.C. 2461 note.

⁹ Inflation Adjustment Act sections 3 and 5, *codified* at 28 U.S.C. 2461 note.

¹⁰ Inflation Adjustment Act section 7, *codified* at 28 U.S.C. 2461 note.

¹¹ Inflation Adjustment Act section 5, *codified* at 28 U.S.C. 2461 note; Memorandum to the Exec. Dep'ts & Agencies from Mick Mulvaney, Director, Office of Mgmt. & Budget (Dec. 15, 2017), *available* at <https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf>.

adjustment” is 1.02041.¹² Pursuant to the Inflation Adjustment Act and OMB Guidance, the Bureau multiplied each of

its civil penalty amounts by the “cost-of-living adjustment” multiplier and rounded to the nearest dollar.¹³

The new penalty amounts that apply to civil penalties assessed after January 15, 2018 are as follows:

Law	Penalty description	Penalty amounts established under 2017 final rule	OMB “Cost-of-Living Adjustment” multiplier	New penalty amount
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(A)	Tier 1 penalty	\$5,526	1.02041	\$5,639
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(B)	Tier 2 penalty	27,631	1.02041	28,195
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(C)	Tier 3 penalty	1,105,241	1.02041	1,127,799
Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2)	Per violation	1,925	1.02041	1,964
Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2)	Annual cap	1,924,589	1.02041	1,963,870
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(1)	Per failure	90	1.02041	92
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(1)	Annual cap	181,071	1.02041	184,767
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(2)(A)	Per failure, where intentional	181	1.02041	185
SAFE Act, 12 U.S.C. 5113(d)(2)	Per violation	27,904	1.02041	28,474
Truth in Lending Act, 15 U.S.C. 1639e(k)(1)	First violation	11,053	1.02041	11,279
Truth in Lending Act, 15 U.S.C. 1639e(k)(2)	Subsequent violations	22,105	1.02041	22,556

II. Legal Authority

The Bureau issues this final rule under the Federal Civil Penalties Inflation Adjustment Act of 1990,¹⁴ as amended by the Debt Collection Improvement Act of 1996¹⁵ and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,¹⁶ which requires the Bureau to adjust for inflation the civil penalties within its jurisdiction according to a statutorily prescribed formula.

III. Procedural Requirements

A. Administrative Procedure Act

Under the 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.¹⁷ Pursuant to this final rule, § 1083.1 is amended to update the civil penalty amounts. The 2018 adjustments to the civil penalty amounts are technical and non-discretionary, and they merely apply the statutory method for adjusting civil penalty amounts. These adjustments are required by the Inflation Adjustment Act. Moreover, the Inflation Adjustment Act directs agencies to adjust the civil penalties annually notwithstanding section 553 of the APA,¹⁸ and OMB Guidance reaffirms that agencies need not complete a notice-and-comment process before making the annual adjustments

for inflation.¹⁹ For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendment is 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.²⁰ At a minimum, the Bureau believes the annual adjustments to the civil penalty amounts in § 1083.1 fall under the third exception to section 553(d). The Bureau finds that there is good cause to make the amendments effective on January 15, 2018. The amendments to § 1083.1 in this final rule are technical and non-discretionary, and they merely apply the statutory method for adjusting civil penalty amounts and follow the statutory directive to make annual adjustments by January 15 of each year. Moreover, the Inflation Adjustment Act directs agencies to adjust the civil penalties annually notwithstanding section 553 of the APA,²¹ and OMB Guidance reaffirms that agencies need not provide a delay in effective date for the annual adjustments for inflation.²²

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.²³

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,²⁴ 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.*), CFPB will submit a report containing this rule and other required information to the U.S. Senate, the U.S. 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).

List of Subjects in 12 CFR Part 1083

Administrative practice and procedure, Consumer protection, Penalties.

Authority and Issuance

For the reasons set forth above, the Bureau amends 12 CFR part 1083 as set forth below:

¹² Memorandum to the Exec. Dep’ts & Agencies from Mick Mulvaney, Director, Office of Mgmt. & Budget (Dec. 15, 2017), available at <https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf>.

¹³ In rounding to the nearest dollar, the Bureau has rounded down where the digit immediately following the decimal point is less than 5 and has rounded up where the digit immediately following the decimal point is 5 or greater.

¹⁴ Public Law 101–410, 104 Stat. 890.

¹⁵ Public Law 104–134, section 31001(s)(1), 110 Stat. 1321, 1321–373.

¹⁶ Public Law 114–74, section 701, 129 Stat. 584, 599.

¹⁷ 5 U.S.C. 553(b)(B).

¹⁸ Inflation Adjustment Act section 4, *codified* at 28 U.S.C. 2461 note.

¹⁹ Memorandum to the Exec. Dep’ts & Agencies from Mick Mulvaney, Director, Office of Mgmt. & Budget (Dec. 15, 2017), available at <https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf>.

²⁰ 5 U.S.C. 553(d).

²¹ Inflation Adjustment Act section 4, *codified* at 28 U.S.C. 2461 note.

²² Memorandum to the Exec. Dep’ts & Agencies from Mick Mulvaney, Director, Office of Mgmt. & Budget (Dec. 15, 2017), available at <https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf>.

²³ 5 U.S.C. 603(a), 604(a).

²⁴ 44 U.S.C. 3506; 5 CFR part 1320.

PART 1083—CIVIL PENALTY ADJUSTMENTS

■ 1. The authority citation for part 1083 continues to read as follows:

Authority: 12 U.S.C. 2609(d); 12 U.S.C. 5113(d)(2); 12 U.S.C. 5565(c); 15 U.S.C. 1639e(k); 15 U.S.C. 1717a(a); 28 U.S.C. 2461 note.

■ 2. Section 1083.1 is revised to read as follows:

§ 1083.1 Adjustments of civil penalty amounts.

(a) The maximum amount of each civil penalty within the jurisdiction of the Consumer Financial Protection Bureau to impose is adjusted in

accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. 2461 note), as follows:

U.S. Code citation	Civil penalty description	Adjusted maximum civil penalty amount
12 U.S.C. 5565(c)(2)(A)	Tier 1 penalty	\$5,639
12 U.S.C. 5565(c)(2)(B)	Tier 2 penalty	28,195
12 U.S.C. 5565(c)(2)(C)	Tier 3 penalty	1,127,799
15 U.S.C. 1717a(a)(2)	Per violation	1,964
15 U.S.C. 1717a(a)(2)	Annual cap	1,963,870
12 U.S.C. 2609(d)(1)	Per failure	92
12 U.S.C. 2609(d)(1)	Annual cap	184,767
12 U.S.C. 2609(d)(2)(A)	Per failure, where intentional	185
12 U.S.C. 5113(d)(2)	Per violation	28,474
15 U.S.C. 1639e(k)(1)	First violation	11,279
15 U.S.C. 1639e(k)(2)	Subsequent violations	22,556

(b) The adjustments in paragraph (a) of this section shall apply to civil penalties assessed after January 15, 2018, regardless of when the violation for which the penalty is assessed occurred.

Dated: January 4, 2018.

Mick Mulvaney,

Acting Director, Bureau of Consumer Financial Protection.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-1244; Product Identifier 2013-NM-145-AD; Amendment 39-19152; AD 2018-01-11]

RIN 2120-AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A319-115 and A319-133 airplanes. This AD requires contacting the FAA to obtain instructions for addressing the unsafe condition on these products, and doing the actions specified in those instructions. This AD was prompted by a fire during a flight,

in the vicinity of the gaseous oxygen system (GOS) for passengers. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective January 29, 2018.

We must receive comments on this AD by February 26, 2018.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1244; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for

the Docket Operations office (telephone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057-3356; telephone: 425-227-1405; fax: 425-227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2014-0045, dated February 25, 2014; corrected March 4, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus Model A319-115 and A319-133 airplanes. The MCAI states:

Following an ECAM [electronic centralized aircraft monitor] warning “CARGO SMOKE” during flight, the flight crew elected to divert and the aeroplane made an uneventful landing. The post-flight inspection evidenced a heavy fire in the vicinity of the Gaseous Oxygen System (GOS) for passengers, located close to the cargo area. The origin of the fire has not been clearly identified. After more investigation, Airbus determined that the current optional passenger GOS design, specific to A319 aeroplanes, is not robust enough to prevent further events of this kind.

This condition, if not detected and corrected, could lead to an uncontrolled fire, possibly resulting in loss of the aeroplane.

To address this potential unsafe condition, Airbus developed mod 153555 to improve