

**7535-01-U**

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 747**

**RIN: 3133-AE67**

**Civil Monetary Penalty Inflation Adjustment**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Final rule.

**SUMMARY:** On January 23, 2017, the NCUA Board (Board) published an interim final rule amending its regulations to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation. This action, including the amount of the adjustments, is required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. This rule finalizes those amendments.

**DATES:** The interim final rule became effective on January 23, 2017.

**FOR FURTHER INFORMATION CONTACT:** Ian Marenga, Senior Trial Attorney, at 1775 Duke Street, Alexandria, VA 22314, or telephone: (703) 518-6540.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

**II. Regulatory Procedures**

**I. Background**

The Debt Collection Improvement Act of 1996<sup>1</sup> (DCIA) amended the Federal Civil Penalties Inflation Adjustment Act of 1990<sup>2</sup> (FCPIA Act) to require every federal agency to enact regulations that adjust each CMP provided by law under its jurisdiction by the rate of inflation at least once every four years. In November 2015, Congress further amended the CMP inflation requirements in the Bipartisan Budget Act of 2015,<sup>3</sup> which contains the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 amendments).<sup>4</sup> This legislation provides for an initial “catch-up” adjustment of CMPs in 2016, followed by annual inflation adjustments starting in 2017.

On January 23, 2017, in compliance with the 2015 amendments, the Board published the annual inflation adjustments for 2017 in an interim final rule with a request for comments in the Federal

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<sup>1</sup> Pub. L. 104-134, § 31001(s), 110 Stat. 1321-373 (Apr. 26, 1996). The law is codified at 28 U.S.C. 2461 note.

<sup>2</sup> Pub. L. 101-410, 104 Stat. 890 (Oct. 5, 1990), also codified at 28 U.S.C. 2461 note.

<sup>3</sup> Pub. L. 114-74, 129 Stat. 584 (Nov. 2, 2015).

<sup>4</sup> 129 Stat. 599.

Register.<sup>5</sup> In calculating the adjustments, the Board reviewed and applied government-wide guidance issued by the Office of Management and Budget (OMB).<sup>6</sup> In accordance with the procedures and calculations prescribed by the 2015 amendments and OMB's guidance, the Board adjusted the maximum level of each of the CMPs that NCUA has authority to assess. NCUA is not, however, required to assess at the new maximum levels and retains discretion to assess at lower levels, as it has done historically.<sup>7</sup>

The interim final rule became effective on January 23, 2017. The Board received no comments on the rule. Accordingly, this final rule confirms the adjustments made in the interim final rule without change.

## **II. Regulatory Procedures**

Section III of the Supplementary Information in the January 2017 interim final rule sets forth the Board's analyses under the Administrative Procedure Act, the Regulatory Flexibility Act, the Paperwork Reduction Act of 1995, the Small Business Regulatory Enforcement Fairness Act (SBREFA), Executive Order 13132, and the Treasury and General Government Appropriations Act.<sup>8</sup> Because the final rule confirms the interim final rule and does not alter the substance of the analyses and determinations accompanying the interim final rule, the Board continues to rely on those analyses and determinations for purposes of this rulemaking. The Board notes that

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<sup>5</sup> 82 FR 7637 (Jan. 23, 2017).

<sup>6</sup> Office of Management and Budget, Implementation of the 2017 Annual Adjustment Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, M-17-11 (Dec. 16, 2016).

<sup>7</sup> 82 FR 7637, 7639 (Jan. 23, 2017).

<sup>8</sup> See 82 FR 7640.

OMB determined that the interim final rule is not a “major rule” within the meaning of SBREFA.

**List of Subjects in 12 CFR Part 747**

Credit unions, Civil monetary penalties.

By the National Credit Union Administration Board on June \_\_, 2017.

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Gerard Poliquin  
Secretary of the Board

For the reasons stated above, the interim final rule amending 12 CFR Part 747, published at 82 FR 7637 (Jan. 23, 2017) is adopted as a final rule without change.