

THE
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CFPB Publishes Final Rules on Civil Penalty Adjustments and Allowable Charges for FCRA Disclosures

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The CFPB has published two final rules in today's Federal Register, one dealing with [civil penalty adjustments](#) and the other with [allowable charges for FCRA disclosures](#). Both rules are effective immediately.

Civil penalty adjustments. The CFPB's final rule finalizes an interim final rule (IFR) it published in November 2016 to create 12 C.F.R. Part 1083 which sets forth the maximum amounts as adjusted annually for civil penalties within the Bureau's jurisdiction. It also finalizes the CFPB's [October 2018 proposal](#) to add language to Section 1083.1 specifying that the adjusted penalties will apply only to violations that occurred on or after November 2, 2015. The November 2 date is when the 2015 amendment to the Federal Civil Penalties Inflation Adjustment Act of 1990 requiring federal agencies to make annual adjustments to the civil penalties within their jurisdiction was signed into law.

The civil penalties adjusted annually by the CFPB are the Tier 1-3 penalties set forth in Section 1055 of Dodd-Frank, as well as the civil penalties in the Interstate Land Sales Full Disclosure Act, Real Estate Settlement Procedures Act, SAFE Act, and Truth in Lending Act. The final rule sets forth the adjusted maximum amounts that apply to civil penalties assessed after January 31, 2019.

FCRA disclosures. The FCRA provides that where a consumer is not entitled to a free disclosure of information in his or her credit file, a consumer reporting agency (CRA) can impose a reasonable charge for disclosing such information up to the maximum amount allowed by the FCRA. Before Dodd-Frank transferred to the CFPB the FTC's authority to make annual adjustments to the maximum amount, the FTC made the adjustments by issuing a notice rather than by issuing a rule. That practice was continued by the CFPB. The final rule adds a new section (12 CFR Section 1022.41) to Regulation V to codify that the charge imposed by a CRA for a credit file disclosure to a consumer "shall not exceed the maximum allowable charge set by the Bureau" and to add a new appendix (Appendix O) that the CFPB will amend (by notice) each year to indicate the maximum allowable charge for a new calendar year. The appendix will also provide historical information regarding the maximum allowable charge for prior calendar years.

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