

## IX. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a “major rule” as defined by that act.

### List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Exports, Imports, Intergovernmental relations, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 110:

### PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

■ 1. The authority citation for part 110 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 51, 53, 54, 57, 62, 63, 64, 65, 81, 82, 103, 104, 109, 111, 121, 122, 123, 124, 126, 127, 128, 129, 133, 134, 161, 170h, 181, 182, 183, 184, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2071, 2073, 2074, 2077, 2092, 2093, 2094, 2095, 2111, 2112, 2133, 2134, 2139, 2141, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2160c, 2160d, 2201, 2210h, 2231, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Administrative Procedure Act (5 U.S.C. 552, 553); 42 U.S.C. 2139a, 2155a; 44 U.S.C. 3504 note.

Section 110.1(b) also issued under 22 U.S.C. 2403; 22 U.S.C. 2778a; 50 App. U.S.C. 2401 *et seq.*

■ 2. In § 110.21, revise paragraph (b)(3) to read as follows:

#### § 110.21 General license for the export of special nuclear material.

\* \* \* \* \*

(b) \* \* \*

(3) Uranium, enriched to less than 20 percent in uranium–235, in the form of uranium hexafluoride (UF<sub>6</sub>) heels in cylinders being returned to suppliers in EURATOM or the United Kingdom.

\* \* \* \* \*

■ 3. In § 110.40, revise paragraph (b)(3) to read as follows:

#### § 110.40 Commission review.

\* \* \* \* \*

(b) \* \* \*

(3) An export involving assistance to end uses related to isotope separation,

chemical reprocessing, heavy water production, advanced reactors, or the fabrication of nuclear fuel containing plutonium, except for exports of source material or low-enriched uranium to EURATOM, the United Kingdom, or Japan for enrichment up to 5 percent in the isotope uranium–235, and those categories of exports which the Commission has approved in advance as constituting permitted incidental assistance.

\* \* \* \* \*

■ 4. In § 110.41, revise paragraph (a)(6) to read as follows:

#### § 110.41 Executive Branch review.

(a) \* \* \*

(6) An export involving assistance to end uses related to isotope separation, chemical reprocessing, heavy water production, advanced reactors, or the fabrication of nuclear fuel containing plutonium, except for exports of source material or low-enriched uranium to EURATOM, the United Kingdom, or Japan for enrichment up to 5 percent in the isotope uranium–235, and those categories of exports approved in advance by the Executive Branch as constituting permitted incidental assistance.

\* \* \* \* \*

Dated: December 14, 2020.

For the Nuclear Regulatory Commission.

**Margaret M. Doane,**

*Executive Director for Operations.*

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**BILLING CODE 7590–01–P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Parts 19 and 109

#### Notification of Inflation Adjustments for Civil Money Penalties

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notification of monetary penalties 2021.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) 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 amount of civil money penalties in this

document are applicable to penalties assessed on or after January 1, 2021, for conduct occurring on or after November 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Lee Walzer, Counsel, Chief Counsel’s Office, (202) 649–5490, Office of the Comptroller of the Currency.

**SUPPLEMENTARY INFORMATION:** This document announces changes to the maximum amount of each civil money penalty (CMP) within the OCC’s jurisdiction to administer to account for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Adjustment Act),<sup>1</sup> as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 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 they administer. 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. The agencies are required to publish their CMPs, adjusted pursuant to the multiplier provided by OMB, by January 15 of the applicable year.

To the extent an agency has codified a CMP amount in its regulations, the agency would need to update that amount by regulation. However, if an agency has codified the formula for making the CMP adjustments, then subsequent adjustments can be made solely by notice.<sup>3</sup> In 2018, the OCC published a final regulation to remove the CMP amounts from its regulations, while updating those amounts for inflation through the notification process.<sup>4</sup>

On December 23, 2020, the OMB issued guidance to affected agencies on implementing the required annual adjustment, which included the relevant inflation multiplier.<sup>5</sup> The OCC has

<sup>1</sup> Public Law 101–410, Oct. 5, 1990, 104 Stat. 890, *codified at* 28 U.S.C. 2461 note.

<sup>2</sup> Public Law 114–74, Title VII, section 701(b), Nov. 2, 2015, 129 Stat. 599, *codified at* 28 U.S.C. 2461 note.

<sup>3</sup> See OMB Memorandum M–18–03, “Implementation of the 2018 Annual Adjustment Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,” at 4, which permits agencies that have codified the formula to adjust CMPs for inflation to update the penalties through a notification rather than a regulation.

<sup>4</sup> 83 FR 1517 (Jan. 12, 2018) (final rule); 83 FR 1657 (Jan. 12, 2018) (2018 CMP Notice).

<sup>5</sup> The inflation adjustment multiplier for 2021 is 1.01182. See OMB Memorandum M–21–10.

applied that multiplier to the maximum CMPs allowable in 2020 for national banks and Federal savings associations as listed in the 2020 CMP notification<sup>6</sup> to calculate the maximum amount of CMPs that may be assessed by the OCC

in 2021.<sup>7</sup> There were no new statutory CMPs administered by the OCC during 2020.

The following charts provide the inflation-adjusted CMPs for use beginning on January 1, 2021, pursuant

to 12 CFR 19.240(b) and 109.103(c)(2) for conduct occurring on or after November 2, 2015:

PENALTIES APPLICABLE TO NATIONAL BANKS

U.S. Code citation	Description and tier (if applicable)	Maximum penalty amount (in dollars) <sup>1</sup>
12 U.S.C. 93(b)	Violation of Various Provisions of the National Bank Act: Tier 1 ..... Tier 2 ..... Tier 3 .....	10,366 51,827 2,073,133
12 U.S.C. 164	Violation of Reporting Requirements: Tier 1 ..... Tier 2 ..... Tier 3 .....	4,146 41,463 2,073,133
12 U.S.C. 481	Refusal of Affiliate to Cooperate in Examination .....	10,366
12 U.S.C. 504	Violation of Various Provisions of the Federal Reserve Act: Tier 1 ..... Tier 2 ..... Tier 3 .....	10,366 51,827 2,073,133
12 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act: Tier 1 ..... Tier 2 ..... Tier 3 .....	10,366 51,827 2,073,133
12 U.S.C. 1818(i)(2) <sup>3</sup>	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty: Tier 1 ..... Tier 2 ..... Tier 3 .....	10,366 51,827 2,073,133
12 U.S.C. 1820(k)(6)(A)(ii)	Violation of Post-Employment Restrictions: Per violation .....	341,000
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instrument for Transfers to Third Parties: Per violation .....	3,011
12 U.S.C. 1884	Violation of the Bank Protection Act .....	301
12 U.S.C. 1972(2)(F)	Violation of Anti-Tying Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty: Tier 1 ..... Tier 2 ..... Tier 3 .....	10,366 51,827 2,073,133
12 U.S.C. 3110(a)	Violation of Various Provisions of the International Banking Act (Federal Branches and Agencies):	47,378
12 U.S.C. 3110(c)	Violation of Reporting Requirements of the International Banking Act (Federal Branches and Agencies): Tier 1 ..... Tier 2 ..... Tier 3 .....	3,791 37,901 2,189,095
12 U.S.C. 3909(d)(1)	Violation of International Lending Supervision Act .....	2,579
15 U.S.C. 78u-2(b)	Violation of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act: Tier 1 (natural person)—Per violation ..... Tier 1 (other person)—Per violation ..... Tier 2 (natural person)—Per violation ..... Tier 2 (other person)—Per violation ..... Tier 3 (natural person)—Per violation ..... Tier 3 (other person)—Per violation .....	9,753 97,523 97,523 487,616 195,047 975,230
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements: First violation ..... Subsequent violations .....	11,906 23,811
42 U.S.C. 4012a(f)(5)	Flood Insurance: Per violation .....	2,252

<sup>1</sup> The maximum penalty amount is per day, unless otherwise indicated.

<sup>2</sup> The maximum penalty amount for a national bank is the lesser of this amount or 1 percent of total assets.

<sup>3</sup> These amounts also apply to CMPs in statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 16930, 1681s, 1691c, and 1692f.

PENALTIES APPLICABLE TO FEDERAL SAVINGS ASSOCIATIONS

U.S. Code citation	CMP description	Maximum penalty amount (in dollars) <sup>1</sup>
12 U.S.C. 1464(v)	Reports of Condition:	

Implementation of Penalty Inflation Adjustments for 2021, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 23, 2020).

<sup>6</sup> See 84 FR 71735 (Dec. 30, 2019).

<sup>7</sup> Penalties assessed for violations occurring prior to November 2, 2015, will be subject to the

maximum amounts set forth in the OCC's regulations in effect prior to the enactment of the 2015 Adjustment Act.

PENALTIES APPLICABLE TO FEDERAL SAVINGS ASSOCIATIONS—Continued

U.S. Code citation	CMP description	Maximum penalty amount (in dollars) <sup>1</sup>
	1st Tier .....	4,146
	2nd Tier .....	41,463
	3rd Tier .....	<sup>2</sup> 2,073,133
12 U.S.C. 1467(d) .....	Refusal of Affiliate to Cooperate in Examination .....	10,366
12 U.S.C. 1467a(r) .....	Late/Inaccurate Reports:	
	1st Tier .....	4,146
	2nd Tier .....	41,463
	3rd Tier .....	<sup>2</sup> 2,073,133
12 U.S.C. 1817(j)(16) .....	Violation of Change in Bank Control Act:	
	Tier 1 .....	10,366
	Tier 2 .....	51,827
	Tier 3 .....	<sup>2</sup> 2,073,133
12 U.S.C. 1818(i)(2) <sup>3</sup> .....	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty:	
	Tier 1 .....	10,366
	Tier 2 .....	51,827
	Tier 3 .....	<sup>2</sup> 2,073,133
12 U.S.C. 1820(k)(6)(A)(ii) .....	Violation of Post-Employment Restrictions:	
	Per violation .....	341,000
12 U.S.C. 1832(c) .....	Violation of Withdrawals by Negotiable or Transferable Instruments for Transfers to Third Parties:	
	Per violation .....	2,737
12 U.S.C. 1884 .....	Violation of the Bank Protection Act .....	301
12 U.S.C. 1972(2)(F) .....	Violation of Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty:	
	Tier 1 .....	10,366
	Tier 2 .....	51,827
	Tier 3 .....	<sup>2</sup> 2,073,133
15 U.S.C. 78u-2(b) .....	Violations of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act:	
	Tier 1 (natural person)—Per violation .....	9,753
	Tier 1 (other person)—Per violation .....	97,523
	Tier 2 (natural person)—Per violation .....	97,523
	Tier 2 (other person)—Per violation .....	487,616
	Tier 3 (natural person)—Per violation .....	195,047
	Tier 3 (other person)—Per violation .....	975,230
15 U.S.C. 1639e(k) .....	Violation of Appraisal Independence Requirements:	
	First violation .....	11,906
	Subsequent violations .....	23,811
42 U.S.C. 4012a(f)(5) .....	Flood Insurance:	
	Per violation .....	2,252

<sup>1</sup> The maximum penalty amount is per day, unless otherwise indicated.

<sup>2</sup> The maximum penalty amount for a federal savings association is the lesser of this amount or 1 percent of total assets.

<sup>3</sup> These amounts also apply to statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1681s, 1691c, and 1692l.

**Jonathan V. Gould,**  
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**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 701**

**RIN 3133-AF24**

**Fees Paid by Federal Credit Unions**

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

**ACTION:** Final rule.

**SUMMARY:** The NCUA Board (Board) is amending its regulation governing assessment of an annual operating fee to Federal credit unions (FCUs). First, for

purposes of calculating the annual operating fee, the final rule amends the current rule to exclude from total assets any loan an FCU reports under the Small Business Administration's Paycheck Protection Program (PPP) or similar future programs approved for exclusion by the NCUA Board. Second, the final rule deletes from the current regulation references to the Credit Union System Investment Program and the Credit Union Homeowners Affordability Relief Program, both of which no longer exist. Third, the final rule amends the period used for the calculation of an FCU's total assets. Currently, total assets are calculated using the FCU's December 31st Call Report of the preceding year. Under the final rule, total assets will be calculated as the average total assets reported on the FCU's previous four Call Reports available at the time the NCUA Board approves the agency's budget for the

upcoming year, adjusted for any excludable programs as determined by the Board. Finally, the final rule makes some minor technical changes.

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

**FOR FURTHER INFORMATION CONTACT:** James Holm, Supervisory Budget Analyst, Office of the Chief Financial Officer, at (703) 518-6570; Kevin Tuininga, Associate General Counsel, or John H. Brolin, Senior Staff Attorney, Office of General Counsel, at (703) 518-6540; or by mail at 1775 Duke Street, Alexandria, VA 22314.

**SUPPLEMENTARY INFORMATION:**

- I. Introduction
- II. Legal Authority
- III. Summary of the Proposal and Public Comments
- IV. Summary of the Final Rule
- V. Regulatory Procedures