

TABLE 2 TO PARAGRAPH (b)—Continued

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$5,000–\$9,999.99	[\$141 + (\$13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$844 × [1 + (.25 × Number of previous violations)].
\$10,000–24,999.99	[\$211 + (\$13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1267 × [1 + (.25 × Number of previous violations)].
\$25,000–49,999.99	[\$450 + (\$36 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1970 × [1 + (.25 × Number of previous violations)].
\$50,000–74,999.99	[\$674 + (\$113 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4489 × [1 + (.25 × Number of previous violations)].
\$75,000–99,999.99	[\$896 + (\$151 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5986 × [1 + (.25 × Number of previous violations)].
\$100,000–149,999.99	[\$1347 + (\$187 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$7482 × [1 + (.25 × Number of previous violations)].
\$150,000–199,999.99	[\$1796 + (\$224 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$8978 × [1 + (.25 × Number of previous violations)].
\$200,000–249,999.99	[\$2245 + (\$261 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,224 × [1 + (.25 × Number of previous violations)].
\$250,000–349,999.99	[\$3367 + (\$298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$13,468 × [1 + (.25 × Number of previous violations)].
\$350,000–449,999.99	[\$4489 + (\$298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$14,966 × [1 + (.25 × Number of previous violations)].
\$450,000–549,999.99	[\$5612 + (\$298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$16,461 × [1 + (.25 × Number of previous violations)].
\$550,000–649,999.99	[\$6735 + (\$298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$17,958 × [1 + (.25 × Number of previous violations)].
\$650,000–749,999.99	[\$7857 + (\$298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$19,455 × [1 + (.25 × Number of previous violations)].
\$750,000–849,999.99	[\$8978 + (\$298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$20,951 × [1 + (.25 × Number of previous violations)].
\$850,000–949,999.99	[\$10,101 + (\$298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$22,446 × [1 + (.25 × Number of previous violations)].
\$950,000 or over	[\$11,224 + (\$298 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$23,944 × [1 + (.25 × Number of previous violations)].

¹ The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be \$8,231.

* * * * *

§ 111.44 [Amended]

■ 4. Amend § 111.44(a)(1) by removing “\$149” and adding in its place “\$151”.

Dated: December 30, 2020.

On behalf of the Commission.

Ellen L. Weintraub,

Commissioner, Federal Election Commission.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 313

RIN 3064–AF25

Collection of Civil Money Penalty Debt

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending the FDIC’s Procedures for Corporate Debt Collection to include delinquent civil money penalties within the debt covered by those procedures.

DATES: The final rule is effective on February 10, 2021.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The Debt Collection Improvement Act of 1996 (DCIA) requires Federal agencies to collect debts owed to the United States in accordance with regulations that either adopt, or at least are consistent with, standards prescribed by the Department of Justice (DOJ) and Department of the Treasury (Treasury).¹ Treasury has issued regulations applicable to collection under the DCIA, and these regulations,

¹ See Public Law 104–134, 110 Stat. 1321–358 (codified at 31 U.S.C. 3701 *et seq.*).

known as the Federal Claims Collection Standards (FCCS), became effective on December 22, 2000. The purpose of the DCIA is to enhance the efficiency and effectiveness of the Federal Government’s efforts to collect debt owed to the United States. A principal feature of the DCIA was the creation of the Treasury Offset Program (TOP), a Government-wide database of delinquent debtors that offsets (reduces) Federal payments to recipients who also owe delinquent debt to the United States and that remits the offset amount to the creditor agency.

The FDIC is amending its regulations, in accordance with the DCIA, to add the collection of civil money penalty (CMP) debt to the FDIC’s existing debt-collection regulations found in 12 CFR part 313. Part 313 does not currently provide for collection of CMP debt. The amendments would allow the FDIC to refer debts arising from its enforcement-related activities to Treasury for collection, thereby improving the effectiveness of the FDIC’s debt-collection efforts.

II. Background

In 2002, the FDIC, in compliance with the DCIA, promulgated 12 CFR part 313

governing the collection of certain debts owed to the FDIC in its corporate capacity by Federal employees, including FDIC employees, and certain third parties.² The FDIC amended part 313 in 2006 to include criminal restitution debt.³ Part 313, in its present form, applies only to debts owed to and payments made by the FDIC acting in its corporate capacity, and criminal restitution debt owed to the FDIC in either its corporate capacity or its receivership capacity.⁴

The DCIA authorizes the FDIC to collect delinquent CMP debts that arise from its supervision and enforcement functions,⁵ but the current part 313 does not apply—aside from criminal restitution debt noted above—to “debts owed to or payments made by the FDIC in connection with the FDIC’s liquidation, supervision, enforcement, or insurance responsibilities.”⁶

III. Discussion of the Amendments to Part 313

The rule amends FDIC regulations to provide for the collection of CMP debt. It will do so by adopting existing Treasury regulations concerning debt-collection procedures as to the collection of CMP debt. It will improve the effectiveness of the FDIC’s debt-collection efforts, primarily by allowing the FDIC to refer debts arising from its enforcement-related activities to Treasury for collection. The rule will not affect the FDIC’s existing authority under part 313 to collect other forms of debt, including debt owed to the FDIC in its corporate capacity or for the collection of criminal restitution debt.

The legal authority for the amendments is found, in part, in the DCIA itself. The DCIA’s definition of “debt” includes “any amount of funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization or entity other than another Federal agency.”⁷ The FDIC is amending part 313 in accordance with the FDIC’s authority under 12 U.S.C. 1819(a) to

prescribe rules and regulations governing its operations.

Accordingly, the FDIC is amending part 313 as follows:

Section 313.1 (Scope) is revised to include CMP debt in part 313. This section also notes that subparts B through G of part 313 do not apply to the collection of CMP debt.

Section 313.3 (Definitions) is amended to include CMP debtors among the list of debtors, under paragraph (u), to whom a creditor agency (the FDIC) may send a written notice that, among other statements, claims a debt and informs the debtor that the creditor agency intends to collect the debt by administrative offset. The rule makes a technical revision to paragraph (d) to substitute “the Bureau of the Fiscal Service” as the successor Treasury entity to “FMS” (Treasury’s former Financial Management Service) and to note that the FDIC has the statutory authority, under 12 U.S.C. 1818(i)(2)(F), to compromise, modify, or remit any CMP that the FDIC may assess or has already assessed under 12 U.S.C. 1818(i)(2)(A)–(C). Section 313.3 is also revised at paragraphs (j), (m), (n), and (q) to include three divisions of the FDIC, as well as the directors of those divisions (or their designees), since the enforcement and supervisory activities of those divisions may result in the assessment of CMPs.

Section 313.4 (Delegations of authority) contains technical amendments to clarify the following delegations: (1) Authority to collect debt, other than criminal restitution debt and CMP debt, on behalf of the FDIC in its corporate capacity is delegated to the Director of the Division of Administration or Director of the Division of Finance, as applicable, or to the applicable Director’s designee; and (2) authority to collect criminal restitution debt on behalf of the FDIC in either its receivership or corporate capacity is delegated to the Director of the Division of Resolutions and Receiverships, or to her or his designee.

The rule creates a new part 313, subpart H, which concerns the collection of CMP debt. Section 313.181 (Scope) states that subpart H establishes FDIC procedures for the collection of CMP debt. Section 313.182 (Purpose) notes that the purpose of subpart H is to implement Federal statutes and regulatory standards authorizing the FDIC to collect delinquent CMPs. Section 313.183 (Definitions) indicates that the definitions provided at section 313.3 apply to subpart H to the extent they are applicable.

Section 313.184 outlines how the FDIC will collect CMP debt. Paragraph

(a) states that the FDIC will follow Treasury regulations set forth at 31 CFR part 285, as applicable and consistent with subpart H, for the collection of CMP debt, including centralized offset of Federal payments to collect non-tax debts that may be owed to the FDIC. Paragraph (b) notes that nothing in subpart H shall be construed to require the FDIC to provide duplicate notice or other procedural protections that have already been provided or afforded to a CMP debtor in the course of administrative or judicial litigation or otherwise. Paragraph (c) says that, for CMP debtors, and for purposes of 31 U.S.C. 3716(b)(1), the FDIC adopts without change the regulations on collection by administrative offset set forth at 31 CFR 901.3 and other relevant sections of the FCCS applicable to such offset, to the extent those regulations are consistent with subpart H. Finally, paragraph (d) states that nothing in subpart H precludes the collection of debts through any other available means or precludes the FDIC from engaging in litigation or the compromise of debt as provided under 12 U.S.C. 1818(i) or any other applicable law or regulation.

IV. Expected Effects

The FDIC is amending part 313 in accordance with the FDIC’s authority under 12 U.S.C. 1819(a) to prescribe rules and regulations governing its operations. The rule would not directly affect any FDIC-supervised institutions. The rule could indirectly affect FDIC-insured institutions and individuals who are delinquent with respect to CMPs that have been assessed against them by the FDIC. According to the FDIC’s information, the sum of delinquent CMPs owed to the FDIC amounts to approximately \$1 million. The delinquent CMP funds represent a preexisting obligation owed by the individuals or institutions; therefore, the rule will have no effect on these obligations. However, the rule, as amended, could increase the portion of these obligations that is ultimately collected under part 313.

V. Alternatives Considered

As discussed previously, part 313 does not currently apply to the collection of delinquent CMPs. The FDIC believes that it can increase the effectiveness of its delinquent CMP collection efforts through the use of administrative offset. The DCIA states that agencies, before collecting a claim by administrative offset, must either adopt the FCCS without change or prescribe agency regulations for collecting debts by administrative offset that are consistent with the FCCS. The

² See 67 FR 48525 (July 25, 2002).

³ 71 FR 75659 (Dec. 18, 2006).

⁴ 12 CFR 313.1(c)(1)–(2).

⁵ The FDIC assesses CMPs under the Federal Deposit Insurance Act, 12 U.S.C. 1818(i), and a variety of other statutes. See, e.g., 12 U.S.C. 1972(2)(F) (authorizing the FDIC to impose CMPs for violations of the Bank Holding Company Act of 1970 related to prohibited tying arrangements); 15 U.S.C. 78u–2 (authorizing the FDIC to impose CMPs for violations of certain provisions of the Securities Exchange Act of 1934); and 42 U.S.C. 4012a(f) (authorizing the FDIC to impose CMPs for pattern or practice violations of the Flood Disaster Protection Act).

⁶ 12 CFR 313.1(c)(3).

⁷ 37 U.S.C. 3701(b)(1).

FDIC has considered these two approaches and has decided to adopt the FCCS without change for the collection of delinquent CMPs.

VI. Administrative Law Matters

A. Administrative Procedure Act

The FDIC is issuing this final rule without prior notice and the opportunity for public comment ordinarily prescribed by the Administrative Procedure Act (APA).⁸ Pursuant to section 553(b)(A) of the APA, general notice and the opportunity for public comment are not required with respect to a rule of “agency organization, procedure, or practice.”⁹

As discussed above, this final rule amends the FDIC regulations to provide for the collection of CMP debt. It will do so by adopting existing Treasury regulations concerning debt-collection procedures as to the collection of CMP debt. These amendments relate solely to agency procedure and practice. For this reason, the FDIC finds that general notice and opportunity for public comment are not required under the APA.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)¹⁰ requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.¹¹ The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed previously, consistent with section 553(b)(A) of the APA, the FDIC has determined that general notice and opportunity for public comment is not required as the final rule is a rule of agency procedure and practice. Accordingly, the FDIC has concluded that the RFA’s requirements relating to initial and final regulatory flexibility analysis do not apply.

C. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA),¹² the FDIC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently-valid Office of Management and Budget (OMB) control number. The final rule

does not create new or modify existing information collection requirements. Accordingly, no submission to OMB will be made with respect to the final rule.

D. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),¹³ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.¹⁴ Because the final rule does not impose any reporting, disclosure, or other new requirements on insured depository institutions, the requirements of RCDRIA do not apply.

E. Congressional Review Act

For purposes of the Congressional Review Act (CRA), OMB makes a determination as to whether a final rule constitutes a “major” rule.¹⁵ If a rule is deemed a “major rule” by the OMB, the CRA generally provides that the rule may not take effect until at least 60 days following its publication.

The CRA defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (1) an annual effect on the economy of \$100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-

based enterprises in domestic and export markets.¹⁶

The OMB has determined that this final rule is not a major rule for purposes of the CRA. As required by the CRA, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

F. Plain Language

Section 722 of the Gramm-Leach-Bliley Act¹⁷ requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. The FDIC has sought to present the final rule in a simple and straightforward manner.

List of Subjects in 12 CFR Part 313

Administrative practice and procedure, Authority delegations (Government agencies), Claims, Government employees, Wages.

Authority and Issuance

For the reasons stated in the preamble and under the authority of 12 U.S.C. 1819 (Seventh and Tenth), the FDIC amends 12 CFR part 313 as follows:

PART 313—PROCEDURES FOR COLLECTION OF CORPORATE DEBT, CRIMINAL RESTITUTION DEBT, AND CIVIL MONEY PENALTY DEBT

- 1. Revise the authority citation for part 313 to read as follows:

Authority: 5 U.S.C. 5514; 12 U.S.C. 1818(i), 1819(a); Pub. L. 104–134, 110 Stat. 1321 (31 U.S.C. 3701, 3711, 3716).

- 2. Revise the heading for part 313 to read as set forth above.
- 3. Revise subpart A to read as follows:

Subpart A—Scope, Purpose, Definitions, and Delegations of Authority

Sec.

- 313.1 Scope.
- 313.2 Purpose.
- 313.3 Definitions.
- 313.4 Delegations of authority.
- 313.5 through 313.19 [Reserved]

Subpart A—Scope, Purpose, Definitions, and Delegations of Authority

§ 313.1 Scope.

This part establishes the Federal Deposit Insurance Corporation (FDIC) procedures for the collection of certain debts owed to the United States.

(a) This part applies to collections by the FDIC from:

- (1) Federal employees who are indebted to the FDIC;

¹⁶ 5 U.S.C. 804(2).

¹⁷ Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999).

⁸ 5 U.S.C. 553.

⁹ 5 U.S.C. 553(b)(A).

¹⁰ 5 U.S.C. 601 *et seq.*

¹¹ Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of \$600 million or less and trust companies with total assets of \$41.5 million or less. See 13 CFR 121.201.

¹² 44 U.S.C. 3501–3521.

¹³ 12 U.S.C. 4802(a).

¹⁴ *Id.* at 4802(b).

¹⁵ 5 U.S.C. 801 *et seq.*

(2) Employees of the FDIC who are indebted to other agencies;

(3) Other persons, organizations, or entities that are indebted to the FDIC, except those excluded in paragraph (b)(3) of this section; and

(4) Civil money penalty debtors assessed civil money penalties by the FDIC.

(b) This part does not apply:

(1) To debts or claims arising under the Internal Revenue Code of 1986 (Title 26, U.S. Code), the Social Security Act (42 U.S.C. 301 *et seq.*), or the tariff laws of the United States;

(2) To a situation to which the Contract Disputes Act (41 U.S.C. 601 *et seq.*) applies; or

(3) In any case where collection of a debt is explicitly provided for or prohibited by another statute.

(c) This part applies only to:

(1) Debts owed to and payments made by the FDIC acting in its corporate capacity, that is, in connection with employee matters such as travel-related claims and erroneous overpayments, contracting activities involving corporate operations, debts related to requests to the FDIC for documents under the Freedom of Information Act (FOIA), or where a request for an offset is received by the FDIC from another Federal agency;

(2) Criminal restitution debt owed to the FDIC in either its corporate capacity or its receivership capacity; and

(3) Civil money penalties arising out of the FDIC's activities in its supervision or enforcement capacities.

(4) With the exception of criminal restitution debt noted in paragraph (c)(2) of this section and civil money penalty debt noted in paragraph (c)(3) of this section, this part does not apply to debts owed to or payments made by the FDIC in connection with the FDIC's liquidation, supervision, enforcement, or insurance responsibilities, nor does it limit or affect the FDIC's authority with respect to debts or claims under 12 U.S.C. 1819(a) and 1820(a).

(d) Subparts B through G of this part do not apply to the collection of civil money penalty debt.

(e) Nothing in this part precludes the compromise, suspension, or termination of collection actions, where appropriate, under: Standards implementing the Debt Collection Improvement Act (DCIA) (31 U.S.C. 3711 *et seq.*); the Federal Claims Collection Standards (FCCS) (31 CFR chapter IX); or any other applicable law.

§ 313.2 Purpose.

(a) The purpose of this part is to implement Federal statutes and regulatory standards authorizing the

FDIC to collect debts owed to the United States. This part is consistent with the following Federal statutes and regulations:

(1) DCIA at 31 U.S.C. 3711 (collection and compromise of claims); section 3716 (administrative offset), section 3717 (interest and penalty on claims), and section 3718 (contracts for collection services);

(2) 5 U.S.C. 5514 (salary offset);

(3) 5 U.S.C. 5584 (waiver of claims for overpayment);

(4) 31 CFR chapter IX (Federal Claims Collection Standards);

(5) 5 CFR part 550, subpart K (salary offset);

(6) 31 U.S.C. 3720D and 31 CFR 285.11 (administrative wage garnishment);

(7) 26 U.S.C. 6402(d), 31 U.S.C. 3720A, and 31 CFR 285.2 (tax refund offset); and

(8) 5 CFR 831.1801 through 1808 (U.S. Office of Personnel Management (OPM) offset).

(b) Collectively, the statutes and regulations in paragraph (a) of this section prescribe the manner in which Federal agencies should proceed to establish the existence and validity of debts owed to the Federal Government and describe the remedies available to agencies to offset valid debts.

§ 313.3 Definitions.

Except where the context clearly indicates otherwise or where the term is defined elsewhere in this subpart, the following definitions shall apply to this subpart.

(a) *Agency* means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of Government, including Government corporations.

(b) *Board* means the Board of Directors of the FDIC.

(c) *Centralized administrative offset* means the mandatory referral to the Secretary of the Treasury by a creditor agency of a past due debt which is more than 180 days delinquent, for the purpose of collection under the Treasury's centralized offset program.

(d) *Certification* means a written statement transmitted from a creditor agency to a paying agency for purposes of administrative or salary offset, to Treasury's Bureau of the Fiscal Service for offset or to the Secretary of the Treasury for centralized administrative offset. The certification confirms the existence and amount of the debt and verifies that required procedural protections have been afforded the debtor. Where the debtor requests a hearing on a claimed debt, the decision

by a hearing official or administrative law judge constitutes a certification.

(e) *Chairman* means the Chairman of the FDIC.

(f) *Compromise* means the settlement or forgiveness of a debt under 31 U.S.C. 3711 or 12 U.S.C. 1818(i)(2)(F) (for civil money penalties), in accordance with standards set forth in the FCCS and applicable Federal law.

(g) *Creditor agency* means an agency of the Federal Government to which the debt is owed, or a debt collection center when acting on behalf of a creditor agency to collect a debt.

(h) *Debt* means an amount owed to the United States from loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, restitution, fines and forfeitures, and all other similar sources. For purposes of this part, a debt owed to the FDIC constitutes a debt owed to the United States.

(i) *Debt collection center* means the Department of the Treasury or other Government agency or division designated by the Secretary of the Treasury with authority to collect debts on behalf of creditor agencies in accordance with 31 U.S.C. 3711(g).

(j) *Director* means the Director of the Division of Finance (DOF), the Director of the Division of Administration (DOA), the Director of the Division of Resolutions and Receiverships (DRR), the Director of the Division of Risk Management Supervision (RMS), the Director of the Division of Depositor and Consumer Protection (DCP), or the Director of the Division of Complex Institution Supervision and Resolution (CISR), as applicable, or the applicable Director's designee.

(k) *Disposable pay* means that part of current adjusted basic pay, special pay, incentive pay, retired pay, retainer pay, and, in the case of an employee not entitled to adjusted basic pay, other authorized pay, remaining for each pay period after the deduction of any amount required by law to be withheld. The FDIC shall allow the following deductions in determining the amount of disposable pay that is subject to salary offset:

(1) Federal employment taxes;

(2) Federal, state, or local income taxes to the extent authorized or required by law, but no greater than would be the case if the employee claimed all dependents to which he or she is entitled and such additional amounts for which the employee presents evidence of a tax obligation supporting the additional withholding;

(3) Medicare deductions;
 (4) Health insurance premiums;
 (5) Normal retirement contributions, including employee contributions to the Thrift Savings Plan or the FDIC 401(k) Plan;

(6) Normal life insurance premiums (e.g., Serviceman's Group Life Insurance and "Basic Life" Federal Employee's Group Life Insurance premiums), not including amounts deducted for supplementary coverage;

(7) Amounts mandatorily withheld for the United States Soldiers' and Airmen's Home; and

(8) Fines and forfeiture ordered by a court-martial or by a commanding officer.

(l) *Division of Administration* (DOA) means the Division of Administration of the FDIC, or any successor division of the FDIC.

(m) *Division of Complex Institution Supervision and Resolution* (CISR) means the Division of Complex Institution Supervision and Resolution of the FDIC, or any successor division of the FDIC.

(n) *Division of Depositor and Consumer Protection* (DCP) means the Division of Depositor and Consumer Protection of the FDIC, or any successor division of the FDIC.

(o) *Division of Finance* (DOF) means the Division of Finance of the FDIC, or any successor division of the FDIC.

(p) *Division of Resolutions and Receiverships* (DRR) means the Division of Resolutions and Receiverships of the FDIC, or any successor division of the FDIC.

(q) *Division of Risk Management Supervision* (RMS) means the Division of Risk Management Supervision of the FDIC, or any successor division of the FDIC.

(r) *Federal Claims Collection Standards* (FCCS) means standards published at 31 CFR chapter IX.

(s) *Garnishment* means the process of withholding amounts from the disposable pay of a person employed outside the Federal Government, and the paying of those amounts to a creditor in satisfaction of a withholding order.

(t) *Hearing official* means an administrative law judge or other individual authorized to conduct a hearing and issue a final decision in response to a debtor's request for hearing. A hearing official may not be under the supervision or control of the Chairman or FDIC Board when the FDIC is the creditor agency.

(u) *Notice of Intent to Offset* or *Notice of Intent* means a written notice from a creditor agency to an employee, organization, entity, restitution debtor,

or civil money penalty debtor that claims a debt and informs the debtor that the creditor agency intends to collect the debt by administrative offset. The notice also informs the debtor of certain procedural rights with respect to the claimed debt and offset.

(v) *Notice of Salary Offset* means a written notice from a paying agency to its employee informing the employee that salary offset to collect a debt due to the creditor agency will begin at the next officially established pay interval. The paying agency transmits this notice to its employee after receiving a certification from the creditor agency.

(w) *Paying agency* means the agency of the Federal Government that employs the individual who owes a debt to an agency of the Federal Government. The same agency may be both the creditor agency and the paying agency.

(x) *Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

(y) *Waiver* means the cancellation, remission, forgiveness or non-recovery of a debt allegedly owed by an employee to an agency, as authorized or required by 5 U.S.C. 5584 or any other law.

(z) *Withholding order* means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body. For purposes of administrative wage garnishment, the terms "wage garnishment order" and "garnishment order" have the same meaning as "withholding order."

§ 313.4 Delegations of authority.

Authority to conduct the following activities is delegated as follows: Authority to collect debt, other than criminal restitution debt and civil money penalty debt, on behalf of the FDIC in its corporate capacity is delegated to the Director of DOA or Director of DOF, as applicable, or to the applicable Director's designee; and authority to collect criminal restitution debt on behalf of the FDIC in either its receivership or corporate capacity is delegated to the Director of DRR, or to her or his designee. These individuals, under the delegations in this section, may do the following:

(a) Initiate and carry out the debt collection process on behalf of the FDIC, in accordance with the FCCS;

(b) Accept or reject compromise offers and suspend or terminate collection actions to the full extent of the FDIC's legal authority under 12 U.S.C. 1819(a) and 1820(a), 31 U.S.C. 3711(a)(2), and any other applicable statute or

regulation, provided, however, that no such claim shall be compromised or collection action terminated, except upon the concurrence of the FDIC General Counsel or his or her designee;

(c) Report to consumer reporting agencies certain data pertaining to delinquent debts, where appropriate;

(d) Use administrative offset procedures, including salary offset, to collect debts; and

(e) Take any other action necessary to promptly and effectively collect debts owed to the United States in accordance with the policies contained herein and as otherwise provided by law.

§§ 313.5 through 313.19 [Reserved]

■ 4. Add subpart H to read as follows:

Subpart H—Civil Money Penalty Debt

Sec.

313.181 Scope.

313.182 Purpose.

313.183 Definitions.

313.184 Collection of civil money penalty debt.

313.185 through 313.190 [Reserved]

Subpart H—Civil Money Penalty Debt

§ 313.181 Scope.

This subpart establishes FDIC procedures for the collection of civil money penalty debt.

§ 313.182 Purpose.

The purpose of this subpart is to implement Federal statutes and regulatory standards authorizing the FDIC to collect delinquent civil money penalties.

§ 313.183 Definitions.

Except where the context clearly indicates otherwise or where the term is defined elsewhere in this subpart, the definitions provided at § 313.3 apply to this subpart.

§ 313.184 Collection of civil money penalty debt.

(a) The FDIC will follow Department of Treasury regulations set forth at 31 CFR part 285, as applicable and consistent with this subpart, for the collection of civil money penalty debt, including centralized offset of Federal payments to collect non-tax debts that may be owed to the FDIC, under 31 CFR 285.5.

(b) Nothing in this subpart shall be construed to require the FDIC to provide duplicate notice or other procedural protections that have already been provided or afforded to a civil money penalty debtor in the course of administrative or judicial litigation or otherwise.

(c) For civil money penalty debtors, and for purposes of 31 U.S.C. 3716(b)(1),

the FDIC adopts without change the regulations on collection by administrative offset set forth at 31 CFR 901.3 and other relevant sections of the Federal Claims Collection Standards applicable to such offset, to the extent those regulations are consistent with this subpart.

(d) Nothing in this subpart precludes the collection of debts through any other available means or precludes the FDIC from engaging in litigation or the compromise of debt as provided under 12 U.S.C. 1818(i) or any other applicable law or regulation.

§§ 313.185 through 313.190 [Reserved]

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on December 15, 2020.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2020–27955 Filed 1–8–21; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

Office of the Secretary

14 CFR Part 383

Federal Aviation Administration

14 CFR Part 406

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Maritime Administration

46 CFR Parts 221, 307, 340, and 356

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, and 190

Federal Railroad Administration

49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, and 272

Federal Motor Carrier Safety Administration

49 CFR Part 386

National Highway Traffic Safety Administration

49 CFR Part 578

RIN 2105–AE90

Revisions to Civil Penalty Amounts

AGENCY: Department of Transportation (DOT or the Department).

ACTION: Final rule.

SUMMARY: In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, this final rule provides the 2020 inflation adjustment to civil penalty amounts that may be imposed for violations of certain DOT regulations. In addition, this final rule makes conforming revisions to Federal Motor Carrier Safety Administration regulations to reflect inflationary adjustments to the statutorily-mandated civil penalties for violations of Federal law.

DATES: Effective January 11, 2021.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

This rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), Public Law 101–410, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114–74, 129 Stat. 599, codified at 28 U.S.C. 2461 note. The FCPIAA and the 2015 Act require Federal agencies to adjust minimum and maximum civil penalty amounts for inflation to preserve their deterrent impact. The 2015 Act amended the formula and frequency of inflation adjustments. It required an initial catch-up adjustment in the form of an interim final rule, followed by annual adjustments of civil penalty amounts using a statutorily mandated formula. Section 4(b)(2) of the 2015 Act specifically directs that the annual adjustment be accomplished through final rule without notice and comment. This rule is effective immediately.

This rule also implements the authority to assess civil penalties for violations concerning the Drug and Alcohol Clearinghouse, set forth in section 34202 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, 126 Stat. 405, codified at 49 U.S.C. 31306a(k)(1).

The Department's authorities over the specific civil penalty regulations being amended by this rule are provided in the preamble discussion below.

I. Background

On November 2, 2015, the President signed into law the 2015 Act, which amended the FCPIAA, to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act requires Federal agencies to: (1) Adjust the level of civil monetary penalties with an initial “catch-up” adjustment through an interim final rule (IFR); and (2) make subsequent annual adjustments for inflation.

The 2015 Act directed the Office of Management and Budget (OMB) to issue guidance on implementing the required annual inflation adjustment no later than December 15 of each year.¹ On December 16, 2019, OMB released this required guidance, in OMB Memorandum M–20–05, which provides instructions on how to

¹ 28 U.S.C. 2461 note.