

provides creditor's rights under commercial law and the final regulations reflect that decision".

2. On page 72906, second column, the last paragraph, "The Treasury Department and the IRS have determined that the proposed regulations already properly provided for this result. As a result of an issuance described in the subsidiary stock issuance exception, the issuer (S2) becomes a successor to the transferor (S1) to the extent of the value of the expanded group stock acquired from the issuer, but only with respect to a debt instrument of the issuer issued during the per se period determined with respect to the issuance. If the issuer (S2) engages in another transaction described in the subsidiary stock issuance exception as a transferor, the acquisition of the stock of the expanded group member (the second issuer) would also not constitute an acquisition of expanded group stock by reason of the exception. Therefore, under a second application of the subsidiary stock issuance exception, the acquisition of the stock of S3 by the issuer (S2), a successor to the transferor (S1), is not treated as described in the second prong of the funding rule and thus cannot be treated as funded by a covered debt instrument issued by the transferor (S1). After the second issuance, the second issuer (S3) is a successor to both the first transferor (S1) and the first issuer (S2), which remains a successor to the first transferor (S1). The final and temporary regulations change the terminology, but do not change the result of the proposed regulations in this regard." is corrected to read, "The Treasury Department and the IRS have determined that the proposed regulations already properly provided for this result in the situation where S2 controls S3 within the meaning of § 1.385-3(c)(2)(i)(B). However, the final regulations further clarify the application of the subsidiary stock acquisition exception in other tiered transfer situations, for instance where S2 subsequently engages in a transaction with an expanded group member controlled by S1, but not controlled by S2. See § 1.385-3(g)(24)(ii)(B)."

3. On page 72916, second column, the second sentence of the first full paragraph from the bottom, "The comments cited leases treated as loans under section 467; receivables and payables resulting from correlative adjustments under section 482; production payments under section 636; coupon stripping transactions under section 1286; and debt (or instruments treated as debt) described in section 856(m)(2), 860G(a)(1), or 1361(c)(5)" is

corrected to read "The comments cited leases treated as loans under section 467; receivables and payables resulting from conforming adjustments under section 482; production payments under section 636; coupon stripping transactions under section 1286; and debt (or instruments treated as debt) described in section 856(m)(2), 860G(a)(1), or 1361(c)(5)".

4. On page 72916, third column, the first complete sentence of the incomplete paragraph at the top, "The final and temporary regulations also provide an exception for debt instruments deemed to arise as a result of transfer pricing adjustments under section 482" is corrected to read "The final and temporary regulations also provide an exception for debt instruments that arise due to conforming adjustments under § 1.482-1(g)(3)".

**Martin V. Franks,**

*Chief, Publications and Regulations Branch,  
Legal Processing Division, Associate Chief  
Counsel, Procedure and Administration.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[DA 16-1453]

### Annual Adjustment of Civil Monetary Penalties To Reflect Inflation

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Inflation Adjustment Act) requires the Federal Communications Commission to amend its forfeiture penalty rules to reflect annual adjustments for inflation in order to improve their effectiveness and maintain their deterrent effect. The 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, including when the penalties whose associated violation predate the increase.

**DATES:** Effective January 24, 2017.

**FOR FURTHER INFORMATION CONTACT:** Celia Lewis, Enforcement Bureau, 202-418-7456, or Gregory Haledjian, Enforcement Bureau, 202-418-7440.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order, DA 16-1453, adopted and released on December 30, 2016. The document is

available for download at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2016/db1230/DA-16-1453A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db1230/DA-16-1453A1.pdf). The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554.

On November 2, 2015, President Obama signed into law the Bipartisan Budget Act of 2015, which included, as Section 701 thereto, the 2015 Inflation Adjustment Act, which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410), to improve the effectiveness of civil monetary penalties and maintain their deterrent effect. Under the act, agencies are required to make annual inflationary adjustments by January 15 each year, beginning in 2017. The adjustments are calculated pursuant to Office of Management and Budget (OMB) guidance. OMB issued guidance on December 16, 2016, and this Order follows that guidance. We therefore update the civil monetary penalties set forth in the Commission's rules, to reflect an annual inflation adjustment that derives from OMB's cost-of-living multiplier of 1.01636. The cost-of-living adjustment is "the percentage (if any)" by which the "(A) Consumer Price Index for the month of October preceding the date of the adjustment, exceeds (B) the Consumer Price Index for the month of October 1 year before the month of October referred to in subparagraph (A)."

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

The Enforcement Bureau will coordinate with the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center to report this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

### List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Penalties.

Federal Communications Commission.  
**Lisa S. Gelb,**  
*Chief of Staff, Enforcement Bureau.*

### Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

### PART 1—PRACTICE AND PROCEDURE

- 1. The authority citation for part 1 is revised to read as follows:

**Authority:** 15 U.S.C. 79 *et seq.*, 47 U.S.C. 151, 154(i) and (j), 155, 157, 160, 201, 225, 227, 303, 309, 301, 332, 1403, 1404, 1451, 1452, and 1455.

- 2. Section 1.80 is amended by revising the table in Section III of the note to

paragraph (b)(8) and revising paragraph (b)(9) to read as follows:

#### § 1.80 Forfeiture proceedings.

\* \* \* \* \*

(b) \* \* \*

(8) \* \* \*

Note to paragraph (b)(8) \* \* \*

Section III. Non-Section 503 Forfeitures That Are Affected by the Downward Adjustment Factors

\* \* \* \* \*

Violation	Statutory amount (\$)
Sec. 202(c) Common Carrier Discrimination .....	\$11,548, \$577/day.
Sec. 203(e) Common Carrier Tariffs .....	\$11,548, \$577/day.
Sec. 205(b) Common Carrier Prescriptions .....	\$23,095.
Sec. 214(d) Common Carrier Line Extensions .....	\$2,309/day.
Sec. 219(b) Common Carrier Reports .....	\$2,309/day.
Sec. 220(d) Common Carrier Records & Accounts .....	\$11,548/day.
Sec. 223(b) Dial-a-Porn .....	\$119,668/day.
Sec. 227(e) Caller Identification .....	\$11,052/violation. \$33,156/day for each day of continuing violation, up to \$1,105,241 for any single act or failure to act.
Sec. 364(a) Forfeitures (Ships) .....	\$9,623/day (owner).
Sec. 364(b) Forfeitures (Ships) .....	\$1,925 (vessel master).
Sec. 386(a) Forfeitures (Ships) .....	\$9,623/day (owner).
Sec. 386(b) Forfeitures (Ships) .....	\$1,925 (vessel master).
Sec. 634 Cable EEO .....	\$853/day.

(9) *Inflation adjustments to the maximum forfeiture amount.* (i) Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74 (129 Stat. 599–600), which amends the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, Public Law 101–410 (104 Stat. 890; 28 U.S.C. 2461 note), the statutory maximum amount of a forfeiture penalty assessed under this section shall be adjusted annually for inflation by order published no later than January 15 each year. Annual inflation adjustments will be based on the percentage (if any) by which the CPI–U for October preceding the date of the adjustment exceeds the prior year’s CPI–U for October. The Office of Management and Budget (OMB) will issue adjustment rate guidance no later than December 15 each year to adjust for inflation in the CPI–U as of the most recent October.

(ii) The application of the annual inflation adjustment required by the foregoing Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 results in the following adjusted statutory maximum forfeitures authorized by the Communications Act:

U.S. Code citation	Maximum penalty after 2017 inflation adjustment
47 U.S.C. 202(c) .....	\$11,548 577
47 U.S.C. 203(e) .....	11,548 577
47 U.S.C. 205(b) .....	23,095
47 U.S.C. 214(d) .....	2,309
47 U.S.C. 219(b) .....	2,309
47 U.S.C. 220(d) .....	11,548
47 U.S.C. 223(b) .....	119,668
47 U.S.C. 227(e) .....	11,052 33,156 1,105,241
47 U.S.C. 362(a) .....	9,623

U.S. Code citation	Maximum penalty after 2017 inflation adjustment
47 U.S.C. 362(b) .....	1,925
47 U.S.C. 386(a) .....	9,623
47 U.S.C. 386(b) .....	1,925
47 U.S.C. 503(b)(2)(A) .....	48,114 481,147
47 U.S.C. 503(b)(2)(B) .....	192,459
47 U.S.C. 503(b)(2)(C) .....	1,924,589 389,305
47 U.S.C. 503(b)(2)(D) .....	3,593,585 19,246
47 U.S.C. 503(b)(2)(F) .....	144,344 110,524
47 U.S.C. 507(a) .....	1,105,241 1,906
47 U.S.C. 507(b) .....	279
47 U.S.C. 554 .....	853

\* \* \* \* \*

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