

controlled corporation without the recognition of income, gain, or loss.

**DATES:** This correction is effective January 31, 2017 and applicable December 19, 2016.

**FOR FURTHER INFORMATION CONTACT:** Richard K. Passales at (202) 317-5024 or Marie C. Milnes-Vasquez, (202) 317-7700 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulation (TD 9805) that is the subject of this correction is under section 355 of the Internal Revenue Code.

**Need for Correction**

As published, the final regulation (TD 9805) contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the final regulation (TD 9805), that are the subject of FR Doc. 2016-30160, are corrected as follows:

1. On page 91745, in the preamble, third column, the last line from the bottom of the last full paragraph, the language “Controlled stock its distributes.” is corrected to read “Controlled stock it distributes”.

**Martin V. Franks,**

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

[FR Doc. 2017-01055 Filed 1-30-17; 8:45 am]

**BILLING CODE 4830-01-P**

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**29 CFR Part 1601**

**RIN 3046-AB06**

**The 2017 Adjustment of the Penalty for Violation of Notice Posting Requirements**

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Final rule.

**SUMMARY:** In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990, this final rule adjusts for inflation the civil monetary penalty for violation of the notice-posting requirements in Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Genetic Information Non-Discrimination Act.

**DATES:** This final rule is effective March 2, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Thomas J. Schlageter, Assistant Legal Counsel, (202) 663-4668, or Ashley M. Martin, General Attorney, (202) 663-4695, Office of Legal Counsel, 131 M St. NE., Washington, DC 20507. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663-4191 (voice) or (202) 663-4494 (TTY), or to the Publications Information Center at 1-800-669-3362 (toll free).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under section 711 of the Civil Rights Act of 1964 (Title VII), which is incorporated by reference in section 105 of the Americans with Disabilities Act (ADA) and section 207 of the Genetic Information Non-Discrimination Act (GINA), and 29 CFR 1601.30(a), every employer, employment agency, labor organization, and joint labor-management committee controlling an apprenticeship or other training program covered by Title VII, ADA, or GINA must post notices describing the pertinent provisions of Title VII, ADA, or GINA. Such notices must be posted in prominent and accessible places where notices to employees, applicants, and members are customarily maintained.

The EEOC first adjusted the civil monetary penalty for violations of the notice posting requirements in 1997 pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIA Act), 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104-134, Sec. 31001(s)(1), 110 Stat. 1373. A final rule was published in the **Federal Register** on May 16, 1997, at 62 FR 26934, which raised the maximum penalty per violation from \$100 to \$110. The EEOC's second adjustment, made pursuant to the FCPIA Act, as amended by the DCIA, was published in the **Federal Register** on March 19, 2014, at 79 FR 15220 and raised the maximum penalty per violation from \$110 to \$210.

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114-74, Sec. 701(b), 129 Stat. 599, further amended the FCPIA Act, to require each federal agency, not later than July 1, 2016, and not later than January 15 of every year thereafter, to issue regulations adjusting for inflation the maximum civil penalty that may be imposed pursuant to each agency's statutes. The EEOC's initial adjustment

made pursuant to the 2015 Act was published in the **Federal Register** on June 2, 2016, at 81 FR 35269 and raised the maximum penalty per violation from \$210 to \$525. The purpose of the annual adjustment for inflation is to maintain the remedial impact of civil monetary penalties and promote compliance with the law. These periodic adjustments to the penalty are to be calculated pursuant to the inflation adjustment formula provided in section 5(b) of the 2015 Act and, in accordance with section 6 of the 2015 Act, the adjusted penalty will apply only to penalties assessed after the effective date of the adjustment. Generally, the periodic inflation adjustment to a civil monetary penalty under the 2015 Act will be based on the percentage change between the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October preceding the date of adjustment and the prior year's October CPI-U.

**II. Mathematical Calculation**

The adjustment set forth in this final rule was calculated by comparing the CPI-U for October 2016 with the CPI-U for October 2015, resulting in an inflation adjustment factor of 1.01636. The first step of the calculation is to multiply the inflation adjustment factor (1.01636) by the most recent civil penalty amount (\$525) to calculate the inflation-adjusted penalty level (\$533.589). The second step is to round this inflation-adjusted penalty to the nearest dollar (\$534). Accordingly, we are adjusting the maximum penalty per violation specified in 29 CFR 1601.30(a) from \$525 to \$534.

**III. Regulatory Procedures**

*Administrative Procedure Act*

The Administrative Procedure Act (APA) provides an exception to the notice and comment procedures where an agency finds good cause for dispensing with such procedures, on the basis that they are impracticable, unnecessary, or contrary to the public interest. EEOC finds that under 5 U.S.C. 553(b)(3)(B) good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule because this adjustment of the civil monetary penalty is required by the 2015 Act, the formula for calculating the adjustment to the penalty is prescribed by statute, and the Commission has no discretion in determining the amount of the published adjustment. Accordingly, we are issuing this revised regulation as a final rule without notice and comment.

*Executive Order 13563 and 12866*

In promulgating this final rule, EEOC has adhered to the regulatory philosophy and applicable principles set forth in Executive Order 13563. Pursuant to Executive Order 12866, the EEOC has coordinated with the Office of Management and Budget (OMB). Under section 3(f) of Executive Order 12866, the EEOC and OMB have determined that this final rule will not have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. The great majority of employers and entities covered by these regulations comply with the posting requirement, and, as a result, the aggregate economic impact of these revised regulations will be minimal, affecting only those limited few who fail to post required notices in violation of the regulation and statute. The rule only increases the penalty by \$9 for each separate offense, nowhere near the \$100 million figure that would amount to a significant regulatory action.<sup>1</sup>

*Paperwork Reduction Act*

The Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden. This final rule contains no new information collection requirements, and therefore, will create no new paperwork burdens or modifications to existing burdens that are subject to review by the Office of Management and Budget under the PRA.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601–612) only requires a regulatory flexibility analysis when notice and comment is required by the Administrative Procedure Act or some other statute. As stated above, notice and comment is not required for this rule. For that reason, the requirements of the Regulatory Flexibility Act do not apply.

*Unfunded Mandates Reform Act of 1995*

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more

in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Congressional Review Act*

The Congressional Review Act (CRA) requires that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EEOC will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the effective date of the rule. Under the CRA, a major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by the CRA at 5 U.S.C. 804(2).

**List of Subjects in 29 CFR Part 1601**

Administrative practice and procedure.

For the Commission.

Dated: January 13, 2017.

**Jenny R. Yang,**  
*Chair.*

Accordingly, the Equal Employment Opportunity Commission amends 29 CFR part 1601 as follows:

**PART 1601—PROCEDURAL REGULATIONS**

■ 1. The authority citation for part 1601 continues to read as follows:

**Authority:** 42 U.S.C. 2000e to 2000e–17; 42 U.S.C. 12111 to 12117; 42 U.S.C. 2000ff to 2000ff–11.

■ 2. Section 1601.30 is amended by revising paragraph (b) to read as follows:

**§ 1601.30 Notices to be posted.**

\* \* \* \* \*

(b) Section 711(b) of Title VII and the Federal Civil Penalties Inflation Adjustment Act, as amended, make failure to comply with this section punishable by a fine of not more than \$534 for each separate offense.

[FR Doc. 2017–01277 Filed 1–30–17; 8:45 am]

**BILLING CODE 6570–01–P**

**PENSION BENEFIT GUARANTY CORPORATION****29 CFR Parts 4071 and 4302**

**RIN 1212–AB33**

**Adjustment of Civil Penalties**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation is required to amend its regulations annually to adjust the penalties provided for in sections 4071 and 4302 of the Employee Retirement Income Security Act of 1974. This action is being taken in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget memorandum M–17–11. The regulations being amended are those on Penalties for Failure to Provide Certain Notices or Other Material Information and Penalties for Failure to Provide Certain Multiemployer Plan Notices.

**DATES:** *Effective date:* This rule is effective on January 31, 2017.

*Applicability date:* The increases in the civil monetary penalties under sections 4071 and 4302 provided for in this rule apply to such penalties assessed after January 31, 2017.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Cibinic, Deputy Assistant General Counsel for Regulatory Affairs ([cibinic.stephanie@pbgc.gov](mailto:cibinic.stephanie@pbgc.gov)), Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; 202–326–4400 extension 6352. (TTY and TDD users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400 extension 6352.)

**SUPPLEMENTARY INFORMATION:****Executive Summary***Purpose of the Regulatory Action*

This rule is needed to carry out the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The rule finalizes the 2016 interim final regulations required under the 2015 act and further adjusts, as required for 2017, the maximum civil penalties that PBGC may assess for failure to provide certain notices or other material information.

PBGC’s legal authority for this action comes from the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and from sections 4002(b)(3), 4071, and 4302 of the

<sup>1</sup> In the last ten years, the highest number of charges alleging notice posting violations occurred in 2010. In that year, only 114 charges of the 90,837 Title VII, ADA, and GINA charges (.13%) contained a notice posting violation.