B on December 31 of the preceding calendar year exceeded the threshold described in § 1003.2(g)(1)(i). Comment 2(g)–4 discusses a financial institution's responsibilities during the calendar year of a merger.

4. *Merger or acquisition—coverage for calendar year of merger or acquisition.* The scenarios described below illustrate a financial institution's responsibilities for the calendar year of a merger or acquisition. For purposes of these illustrations, a ''covered institution'' means a financial institution, as defined in § 1003.2(g), that is not exempt from reporting under § 1003.3(a), and ''an institution that is not covered'' means either an institution that is not a financial institution, as defined in § 1003.2(g), or an institution that is exempt from reporting under § 1003.3(a).

i. Two institutions that are not covered merge. The surviving or newly formed institution meets all of the requirements necessary to be a covered institution. No data collection is required for the calendar year of the merger (even though the merger creates an institution that meets all of the requirements necessary to be a covered institution). When a branch office of an institution that is not covered is acquired by another institution that is not covered, and the acquisition results in a covered institution, no data collection is required for the calendar year of the acquisition.

ii. A covered institution and an institution that is not covered merge. The covered institution is the surviving institution, or a new covered institution is formed. For the calendar year of the merger, data collection is required for covered loans and applications handled in the offices of the merged institution that was previously covered and is optional for covered loans and applications handled in offices of the merged institution that was previously not covered. When a covered institution acquires a branch office of an institution that is not covered, data collection is optional for covered loans and applications handled by the acquired branch office for the calendar year of the acquisition.

iii. A covered institution and an institution that is not covered merge. The institution that is not covered is the surviving institution, or a new institution that is not covered is formed. For the calendar year of the merger, data collection is required for covered loans and applications handled in offices of the previously covered institution that took place prior to the merger. After the merger date, data collection is optional for covered loans and applications handled in the offices of the institution that was previously covered. When an institution remains not covered after acquiring a branch office of a covered institution, data collection is required for transactions of the acquired branch office that take place prior to the acquisition. Data collection by the acquired branch office is optional for transactions taking place in the remainder of the calendar year after the acquisition.

iv. Two covered institutions merge. The surviving or newly formed institution is a covered institution. Data collection is required for the entire calendar year of the merger. The surviving or newly formed institution files either a consolidated submission or separate submissions for that calendar year. When a covered institution acquires a branch office of a covered institution, data collection is required for the entire calendar year of the merger. Data for the acquired branch office may be submitted by either institution.

5. *Originations.* Whether an institution is a financial institution depends in part on whether the institution originated at least 25 closed-end mortgage loans in each of the two preceding calendar years or at least 500 open-end lines of credit in each of the two preceding calendar years. Comments 4(a)–2 through –4 discuss whether activities with respect to a particular closed-end mortgage loan or open-end line of credit constitute an origination for purposes of § 1003.2(g).

6. *Branches of foreign banks—treated as banks.* A Federal branch or a State-licensed or insured branch of a foreign bank that meets the definition of a ''bank'' under section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is a bank for the purposes of § 1003.2(g).

7. *Branches and offices of foreign banks and other entities—treated as nondepository financial institutions.* A Federal agency, State-licensed agency, State-licensed uninsured branch of a foreign bank, commercial lending company owned or controlled by a foreign bank, or entity operating under section 25 or 25A of the Federal Reserve Act, 12 U.S.C. 601 and 611 (Edge Act and agreement corporations) may not meet the definition of ''bank'' under the Federal Deposit Insurance Act and may thereby fail to satisfy the definition of a depository financial institution under § 1003.2(g)(1). An entity is nonetheless a financial institution if it meets the definition of nondepository financial institution under § 1003.2(g)(2).

* * * * *

Dated: December 20, 2018.

Kathleen Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2018–28373 Filed 1–29–19; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1022

RIN 3170–AA94

Fair Credit Reporting Act Disclosures

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is amending Regulation V, which implements the Fair Credit Reporting Act (FCRA), to add a section establishing a maximum allowable charge for disclosures by a consumer reporting agency to a consumer pursuant to FCRA section 609. The Bureau is also amending Regulation V to add an appendix setting forth the statutory requirements for determining the maximum allowable charge; announcing the maximum charge for 2019; and preserving a list of historical maximum allowable charges. Historically, the Bureau has published these FCRA annual adjustments as a notice. The Bureau is now codifying those notices and adding a provision to Regulation V to track the FCRA's provisions concerning the annual maximum allowable charge.

DATES: *Effective date:* This rule is effective January 31, 2019.

Applicability date: This rule is applicable on January 1, 2019, consistent with relevant statutory provisions.

FOR FURTHER INFORMATION CONTACT: Seth Caffrey, Senior Counsel; or Monique Chenault, Paralegal Specialist at (202) 435–7700 or *https://reginquiries.consumerfinance.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under section 609 of the FCRA, a consumer reporting agency must, upon a consumer's request, disclose to the consumer information in the consumer's file.[1] Section 612(a) of the FCRA gives consumers the right to a free file disclosure upon request once every 12 months from the nationwide consumer reporting agencies and nationwide specialty consumer reporting agencies.[2] Section 612 of the FCRA also gives consumers the right to a free file disclosure under certain other, specified circumstances.[3] Where the consumer is not entitled to a free file disclosure, section 612(f)(1)(A) of the FCRA provides that a consumer reporting agency may impose a reasonable charge on a consumer for making a file disclosure. Section 612(f)(1)(A) of the FCRA provides that the charge for such a disclosure shall not exceed $8.00 and shall be indicated to the consumer before making the file disclosure.[4]

Section 612(f)(2) of the FCRA also states that the $8.00 maximum amount shall increase on January 1 of each year,

[1] 15 U.S.C. 1681g.

[2] 15 U.S.C. 1681j(a).

[3] 15 U.S.C. 1681j(b)–(d). The maximum allowable charge announced by the Bureau does not apply to requests made under Section 612(a)–(d) of the FCRA. The charge does apply when a consumer who orders a file disclosure has already received a free annual file disclosure and does not otherwise qualify for an additional free file disclosure.

[4] 15 U.S.C. 1681j(f)(1)(A).

based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents.[5] Such increases are based on the Consumer Price Index for All Urban Consumers (CPI–U), which is the most general Consumer Price Index and covers all urban consumers and all items.

Prior to 2011, the Federal Trade Commission (FTC) set the maximum allowable charge under section 612(f) of the FCRA (the ''annual adjustment''). The FTC set these amounts by issuing a notice rather than by issuing a rule. In 2011, the responsibility for setting the maximum allowable charge transferred from the FTC to the Bureau pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[6] Consistent with the FTC's historical practice, the Bureau has continued to publish the FCRA annual adjustment as a notice.[7] To underscore for stakeholders that the FCRA annual adjustment amount is legally binding, the Bureau is now issuing a final rule to add a provision to Regulation V (Fair Credit Reporting) to codify a maximum allowable charge for disclosures by a consumer reporting agency to a consumer pursuant to FCRA section 609 and to announce the annual maximum allowable charge.

II. 2019 Annual Adjustment

For 2019, the ceiling on allowable charges under section 612(f) of the FCRA will be $12.50. The Bureau is using the $8.00 amount set forth in section 612(f)(1)(A)(i) of the FCRA as the baseline for its calculation of the increase in the ceiling on reasonable charges for certain disclosures made under section 609 of the FCRA. Since the effective date of section 612(a) was September 30, 1997, the Bureau calculated the proportional increase in the CPI–U from September 1997 to September 2018. The Bureau then determined what modification, if any, from the original base of $8.00 should be made effective for 2019, given the requirement that fractional changes be rounded to the nearest fifty cents.

Between September 1997 and September 2018, the CPI–U increased by 56.59 percent from an index value of 161.2 in September 1997 to a value of 252.439 in September 2018. An increase of 56.59 percent in the $8.00 base figure would lead to a figure of $12.53. However, because the statute directs that the resulting figure be rounded to the nearest $0.50, the maximum allowable charge is $12.50. The Bureau therefore determines that the maximum allowable charge for the year 2019 will be $12.50.

III. Legal Authority and Effective Date

The Bureau issues this rule pursuant to its authority under the FCRA and the Dodd-Frank Act. Effective July 21, 2011, section 1061 of the Dodd-Frank Act[8] transferred to the Bureau the rulemaking and certain other authorities of the FTC and the prudential regulators relating to the enumerated consumer laws, including most rulemaking authority under the FCRA.[9] Likewise, section 1088 of the Dodd-Frank Act made conforming amendments to the FCRA, transferring rulemaking authority under much of the FCRA to the Bureau.[10] As amended by the Dodd-Frank Act, the FCRA generally authorizes the Bureau to issue regulations ''as may be necessary or appropriate to administer and carry out the purposes and objectives of [the FCRA], and to prevent evasions thereof or to facilitate compliance therewith.'' [11] Additionally, FCRA section 612(f)(2) specifically directs the Bureau to annually modify the maximum allowable charge for consumer file disclosures based on changes to the Consumer Price Index.[12]

This final rule is effective on January 31, 2019.

IV. Administrative Procedure Act (APA)

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the Bureau for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). The annual adjustment to the maximum allowable charge under section 612(f) of the FCRA is technical, routine, and nondiscretionary: Each year, the Bureau takes the $8.00 figure set forth in the statute and applies the adjustment formula also set forth in the statute to arrive at the maximum allowable charge. The annual adjustment to the maximum allowable charge merely codifies the result of the calculation prescribed by Congress. The amendments to Regulation V are also technical. The new regulatory text and appendix track the FCRA. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendments are adopted in final form.

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except: (1) A substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d). At a minimum, the Bureau believes the amendments fall under the third exception to section 553(d). As mentioned above, the annual adjustment and the amendments to Regulation V are technical. The amendments codify the language of the FCRA, and the annual adjustment merely applies the statutory method for adjusting the maximum allowable charge and follows the statutory directive to make the annual adjustment each year.

V. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where general notice of proposed rulemaking is not required.[13] As noted previously, the Bureau has determined that it is unnecessary to publish a general notice of proposed rulemaking for this rule. Accordingly the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

VI. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies are generally required to seek the Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. According to the PRA, the Bureau may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays currently a valid control number assigned by OMB. The information requested by Regulation V has been previously approved by OMB and assigned OMB control number 3170–0002. It expires on 08/31/2020. The Bureau has determined that the revisions to this Policy do not introduce

[5] 15 U.S.C. 1681j(f)(2).

[6] Public Law 111–203, section 1088, 124 Stat. 2086 (2010).

[7] 77 FR 20011 (Apr. 3, 2012); 77 FR 74831 (Dec. 18, 2012), 78 FR 79410 (Dec. 30, 2013); 79 FR 74068 (Dec. 15, 2014); 80 FR 72711 (Nov. 20, 2015); 81 FR 81745 (Nov. 18, 2016); 82 FR 53481 (Nov. 16, 2017).

[8] Public Law 111–203, 124 Stat. 2035 (2010).

[9] Section 1002(12)(F) of the Dodd-Frank Act designates most of the FCRA as an ''enumerated consumer law.'' Public Law 111–203, 124 Stat. 1957 (2010).

[10] Public Law 111–203, 124 Stat. 2086 (2010).

[11] Public Law 11–203, section 1088(a)10)(E), 124 Stat. 2090 (2010) (codified at 15 U.S.C. 1681s(e).

[12] 15 U.S.C. 1681j(f)(2).

[13] 5 U.S.C. 603(a), 604(a).

any new or substantively or materially revised collections of information beyond what has been previously approved by OMB.

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule taking effect. The Office of Information and Regulatory Affairs (OIRA) has designated this rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1022

Banks, Banking, Consumer protection, Credit unions, Fair Credit Reporting Act, Holding companies, National banks, Privacy, Reporting and recordkeeping requirements, Savings associations, State member banks.

Authority and Issuance

For the reasons set forth above, the Bureau amends Regulation V, 12 CFR part 1022, as set forth below:

PART 1022—FAIR CREDIT REPORTING (REGULATION V)

■ 1. The authority citation for part 1022 continues to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1681a, 1681b, 1681c, 1681c–1, 1681e, 1681g, 1681i, 1681j, 1681m, 1681s, 1681s–2, 1681s–3, and 1681t; Sec. 214, Public Law 108–159, 117 Stat. 1952.

Subpart O—Miscellaneous Duties of Consumer Reporting Agencies

■ 2. Section 1022.141 is added to read as follows:

§ 1022.141 Reasonable charges for certain disclosures.

Pursuant to section 612(f) of the FCRA, 15 U.S.C. 1681j(f), the charge imposed by a consumer reporting agency for a disclosure to the consumer pursuant to section 609 of the FCRA, 15 U.S.C. 1681g, shall not exceed the maximum allowable charge set by the Bureau.

■ 3. Appendix O is added to read as follows:

Appendix O to Part 1022—Reasonable Charges for Certain Disclosures

Section 612(f) of the FCRA, 15 U.S.C. 1681j(f), directs the Bureau to increase the maximum allowable charge a consumer reporting agency may impose for making a disclosure to the consumer pursuant to section 609 of the FCRA, 15 U.S.C. 1681g, on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents. The Bureau will publish notice of the maximum allowable charge each year by amending this appendix. For calendar year 2019, the maximum allowable charge is $12.50. For historical purposes:

1. For calendar year 2012, the maximum allowable disclosure charge was $11.50.
2. For calendar year 2013, the maximum allowable disclosure charge was $11.50.
3. For calendar year 2014, the maximum allowable disclosure charge was $11.50.
4. For calendar year 2015, the maximum allowable disclosure charge was $12.00.
5. For calendar year 2016, the maximum allowable disclosure charge was $12.00.
6. For calendar year 2017, the maximum allowable disclosure charge was $12.00.
7. For calendar year 2018, the maximum allowable disclosure charge was $12.00.
8. For calendar year 2019, the maximum allowable disclosure charge is $12.50.

Dated: December 21, 2018.

Kathleen Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2018–28372 Filed 1–29–19; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1083

[Docket No. CFPB–2018–0034]

RIN 3170–AA62

Civil Penalty Inflation Adjustments

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is amending its rule that specifies the time period for which adjusted civil penalty amounts would be applied to conduct within its jurisdiction and is also adjusting specific civil penalty amounts in that rule to account for inflation. On June 14, 2016, the Bureau issued an interim final rule (IFR) to implement the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act). On October 12, 2018, the Bureau sought notice and comment on a proposed amendment to the IFR to specify that the adjusted civil penalties only apply to assessments whose associated violations occurred on, or after, November 2, 2015 (the date the 2015 Inflation Adjustment Act amendments were signed into law). This rule finalizes the IFR and proposed amendment; it also adjusts for inflation the maximum amount of each civil penalty within the Bureau's jurisdiction.

DATES: This rule is effective on January 31, 2019.

FOR FURTHER INFORMATION CONTACT: Shelley Thompson, Counsel or Monique Chenault, Paralegal Specialist, Office of Regulations, at (202) 435–7700 or *https://reginquiries.consumerfinance.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990,[1] as amended by the Debt Collection Improvement Act of 1996 [2] and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act),[3] directs Federal agencies to adjust for inflation the civil penalty amounts within their jurisdiction not later than July 1, 2016, and then not later than January 15 every year thereafter.[4] Each agency was required to make the 2016 one-time catch-up adjustments through an interim final rule published in the **Federal Register**. On June 14, 2016, the Bureau published its interim final rule (IFR) to make the initial catch-up adjustments to civil penalties within the Bureau's jurisdiction.[5] The June 2016 IFR created a new part 1083 and in § 1083.1 established the inflation-adjusted maximum amounts for each civil penalty within the Bureau's jurisdiction.[6] The Bureau received no comments in response to the IFR, which became effective on July 14, 2016.

The Inflation Adjustment Act also requires subsequent adjustments to be made annually and notwithstanding section 553 of the Administrative Procedure Act (APA).[7] The Bureau annually adjusted its civil penalty

[1] Public Law 101–410, 104 Stat. 890.

[2] Public Law 104–134, section 31001(s)(1), 110 Stat. 1321, 1321–373.

[3] Public Law 114–74, section 701, 129 Stat. 584, 599.

[4] 28 U.S.C. 2461 note. Section 1301(a) of the Federal Reports Elimination Act of 1998, Public Law 105–362, 112 Stat. 3293, also amended the Inflation Adjustment Act by striking section 6, which contained annual reporting requirements, and redesignating section 7 as section 6, but did not alter the civil penalty adjustment requirements.

[5] 81 FR 38569 (June 14, 2016). Although the Bureau was not obligated to solicit comments for the interim final rule, the Bureau invited public comment and received none.

[6] *See* 12 CFR 1083.1.

[7] Inflation Adjustment Act section 4, *codified* at 28 U.S.C. 2461 note.