

2. Paperwork Reduction Act.

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden or increases an existing burden.<sup>4</sup> For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. This rule does not create any new burdens or increase any existing burdens. Therefore, a PRA analysis is not required.

3. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has, therefore, determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

4. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105-277, 112 Stat. 2681 (1998).

5. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. NCUA does not believe this final rule is a “major rule” within the meaning of the relevant sections of SBREFA. NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

List of Subjects in 12 CFR Part 704

Credit unions, Corporate credit unions, Reporting and recordkeeping requirements.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration amends 12 CFR part 704 as follows:

PART 704—CORPORATE CREDIT UNIONS

■ 1. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1781, and 1789.

■ 2. Amend § 704.2 by adding a definition for *CLF-related bridge loan* in alphabetical order and revising the definitions of *Net assets* and *Net risk-weighted assets* to read as follows:

§ 704.2 Definitions.

\* \* \* \* \*

*CLF-related bridge loan* means interim financing, extending up to ten business days, that a corporate credit union provides for a natural person credit union from the time the CLF approves a loan to the natural person credit union until the CLF funds the loan. To repay a CLF-related bridge loan, the borrowing natural person credit union assigns the proceeds of the CLF advance to the corporate credit union making the CLF-related bridge loan for the duration of the bridge loan.

\* \* \* \* \*

*Net assets* means total assets less Central Liquidity Facility (CLF) stock subscriptions, CLF-related bridge loans, loans guaranteed by the National Credit Union Share Insurance Fund (NCUSIF), and member reverse repurchase transactions. For its own account, a corporate credit union’s payables under reverse repurchase agreements and receivables under repurchase agreements may be netted out if the GAAP conditions for offsetting are met. Also, any amounts deducted in calculating Tier 1 capital are also deducted from net assets.

\* \* \* \* \*

*Net risk-weighted assets* means risk-weighted assets less CLF stock subscriptions, CLF-related bridge loans, loans guaranteed by the NCUSIF, and member reverse repurchase transactions. For its own account, a corporate credit union’s payables under reverse repurchase agreements and receivables under repurchase agreements may be netted out if the GAAP conditions for offsetting are met. Also, any amounts deducted in

calculating Tier 1 capital are also deducted from net risk-weighted assets.

\* \* \* \* \*

■ 3. Amend § 704.7 by revising paragraph (c)(1)(i) and revising paragraph (d)(1) to read as follows:

§ 704.7 Lending.

\* \* \* \* \*

(c) \* \* \*  
(1) \* \* \*

(i) The maximum aggregate amount in unsecured loans and lines of credit from a corporate credit union to any one member credit union, excluding CLF-related bridge loans and pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 50 percent of the corporate credit union’s total capital.

\* \* \* \* \*

(d) \* \* \*

(1) *Credit unions.* A loan to a nonmember credit union, other than through a loan participation with another corporate credit union or a CLF-related bridge loan, is only permissible if the loan is for an overdraft related to the providing of correspondent services pursuant to § 704.12. Generally, such a loan will have a maturity of one business day.

\* \* \* \* \*

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 740, 741, 747, and 796

RIN 3133-AE56

Civil Monetary Penalty Inflation Adjustment

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending its regulations to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation. This action, including the amount of the adjustments, is required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

DATES: This rule is effective September 23, 2015.

FOR FURTHER INFORMATION CONTACT: Ian Marena, Trial Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314, or by telephone (703) 518-6540.

<sup>4</sup> 44 U.S.C. 3507(d); 5 CFR part 1320.

**SUPPLEMENTARY INFORMATION:**

- I. Legal Background
- II. Mathematical Calculation of the Adjustments
- III. Regulatory Procedures

**I. Legal Background**

The Debt Collection Improvement Act of 1996<sup>1</sup> (DCIA) amended the Federal Civil Penalties Inflation Adjustment Act of 1990<sup>2</sup> (FCPIA Act) to require every federal agency to enact regulations that adjust each CMP provided by law under its jurisdiction by the rate of inflation at least once every four years. These periodic adjustments are to be calculated pursuant to the inflation adjustment formula in section 5(b) of the FCPIA Act. Section 6 of the FCPIA Act specifies that inflation-adjusted CMPs will only apply to violations that occur after the effective date of the adjustment.

The inflation adjustment is based on the percentage increase in the Consumer Price Index for all urban customers (CPI-U) published by the Department of Labor.<sup>3</sup> Specifically, section 5(b) of the FCPIA Act defines the term “cost-of-living adjustment” as “the percentage (if any) for each civil monetary penalty by which—(1) the Consumer Price Index

for the month of June of the calendar year preceding the adjustment, exceeds (2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.” The amount of each inflation adjustment must then be rounded to a number prescribed by section 5(a) of the FCPIA Act, depending on the amount of the CMP. In some cases, this rounding results in no increase to a particular CMP maximum amount.

**II. Mathematical Calculation of the Adjustments**

*A. Inflation Percentage and Penalty Adjustment Calculations*

The Board recently became aware that NCUA last reviewed CMPs within its jurisdiction for inflation and made corresponding adjustments in 2009,<sup>4</sup> and that three CMPs have not previously been adjusted by NCUA. This failure to adjust the CMPs within the appropriate timeframe was inadvertent. The Board notes, however, that because NCUA has never assessed any CMPs at the maximum level, this

delay has not affected any CMP assessed by the agency.

As noted above, in this final rule, the Board is correcting NCUA’s oversight by reviewing and adjusting, as appropriate, all relevant CMPs. In addition, the Board is publishing a new maximum amount for an existing CMP that Congress modified in 2012. For this CMP and the three CMPs that have not previously been adjusted, the Board refers to the CPI-U for June of the year in which Congress set the amount of the CMP. For all other CMPs, the Board refers to the year that it last adjusted the maximum amount.

Consistent with NCUA’s 2009 CMP adjustments, the Board provides the inflation calculations in a table below. Following the table, the Board describes the three CMPs that it is adjusting for the first time and the CMP that Congress modified. The table to be published at 12 CFR 747.1001 shows only the adjusted CMPs, not the calculations. The dollar amount in the far right column of the table is the new maximum for each CMP or the existing maximum for those CMPs that NCUA is not increasing because the rounding procedure in the FCPIA Act results in no increase to those maximums.

**CALCULATION OF MAXIMUM CMP ADJUSTMENTS**

Citation	Description/Tier <sup>5</sup>	Current maximum (\$)	Percentage increase (%) <sup>6</sup>	Raw increase (\$)	Adjusted increase (\$) <sup>7</sup>	Adjusted maximum (\$)
12 U.S.C. 1782(a)(3) .....	Inadvertent failure to submit a report or the inadvertent submission of a false or misleading report.	2,200 .....	38.3 (2000)	843	1,000	3,200.
12 U.S.C. 1782(a)(3) .....	Non-inadvertent failure to submit a report or the non-inadvertent submission of a false or misleading report.	22,000 .....	38.3 (2000)	8,426	5,000	32,000.
12 U.S.C. 1782(a)(3) .....	Failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard.	Lesser of 1,300,000 or 1% of total CU assets.	10.5 (2009)	136,500	125,000	Lesser of 1,425,000 or 1% of total CU assets.
12 U.S.C. 1782(d)(2)(A) .....	Tier 1 CMP for inadvertent failure to submit certified statement of insured shares and charges due to NCUSIF, or inadvertent submission of false or misleading statement.	2,200 .....	38.3 (2000)	843	1,000	3,200.
12 U.S.C. 1782(d)(2)(B) .....	Tier 2 CMP for non-inadvertent failure to submit certified statement or submission of false or misleading statement.	22,000 .....	38.3 (2000)	8,426	5,000	32,000.
12 U.S.C. 1782(d)(2)(C) .....	Tier 3 CMP for failure to submit a certified statement or the submission of a false or misleading statement done knowingly or with reckless disregard.	Lesser of 1,300,000 or 1% of total CU assets.	10.5 (2009)	136,500	125,000	Lesser of 1,425,000 or 1% of total CU assets.
12 U.S.C. 1785(a)(3) .....	Non-compliance with insurance logo requirements.	100 .....	14.4 (2007)	14	10	110.
12 U.S.C. 1785(e)(3) .....	Non-compliance with NCUA security requirements.	110 .....	38.3 (2000)	42	0	110.

<sup>1</sup>Public Law 104–134, section 31001(s), 110 Stat. 1321–373 (Apr. 26, 1996). The provision is codified at 28 U.S.C. 2461 note.

<sup>2</sup>Public Law 101–410, 104 Stat. 890 (Oct. 5, 1990), also codified at 28 U.S.C. 2461 note.

<sup>3</sup>The CPI-U is published by the Department of Labor, Bureau of Labor Statistics, and is available at its Web site: <http://www.bls.gov/cpi/>.

<sup>4</sup>74 FR 9349 (Mar. 4, 2009). NCUA also reviewed CMPs for inflation and made corresponding adjustments in 2000 and 2004. 65 FR 57277 (Sept.

22, 2000), 69 FR 60077 (Oct. 7, 2004). All of the CMPs that were increased in 2004 were also increased in 2009. Because of the rounding procedure, not all CMPs that are reviewed for inflation are increased.

CALCULATION OF MAXIMUM CMP ADJUSTMENTS—Continued

Citation	Description/Tier <sup>5</sup>	Current maximum (\$)	Percentage increase (%) <sup>6</sup>	Raw increase (\$)	Adjusted increase (\$) <sup>7</sup>	Adjusted maximum (\$)
12 U.S.C. 1786(k)(2)(A) .....	Tier 1 CMP for violations of law, regulation, and other orders or agreements.	7,500 .....	10.5 (2009)	788	1,000	8,500.
12 U.S.C. 1786(k)(2)(B) .....	Tier 2 CMP for violations of law, regulation, and other orders or agreements and for recklessly engaging in unsafe or unsound practices or breaches of fiduciary duty.	37,500 .....	10.5 (2009)	3,938	5,000	42,500.
12 U.S.C. 1786(k)(2)(C) .....	Tier 3 CMP for knowingly committing the violations under Tier 1 or 2 (natural person).	1,375,000 .....	10.5 (2009)	144,375	150,000	1,525,000.
12 U.S.C. 1786(k)(2)(C) .....	Tier 3 (same) (CU) .....	Lesser of 1,375,000 or 1% of total CU assets.	10.5 (2009)	144,375	150,000	Lesser of 1,525,000 or 1% of total CU assets.
12 U.S.C. 1786(w)(5)(A)(ii) .....	Non-compliance with senior examiner post-employment restrictions.	250,000 .....	22.5 (2005)	56,250	25,000	275,000.
15 U.S.C. 1639e(k) .....	Non-compliance with appraisal independence standards (first violation).	10,000 .....	5.6 (2011)	560	1,000	11,000.
15 U.S.C. 1639e(k) .....	Subsequent violations of the same	20,000 .....	5.6 (2011)	1,120	0	20,000.
42 U.S.C. 4012a(f)(5) .....	Non-compliance with flood insurance requirements.	2,000 .....	2.9 (2012)	78	0	2,000.

B. Description of Initial Adjustments and Modified CMP

NCUA recently determined that three penalties that it has not previously adjusted for inflation meet the definition of CMPs. Also, Congress has changed the amount and structure of one additional penalty that the Board has previously adjusted for inflation.

<sup>5</sup> The table uses shorthand descriptions of CMP tiers. Refer to the U.S. Code citations for complete descriptions.

<sup>6</sup> The year that NCUA last adjusted the CMP or that Congress set it is shown in parentheses. With the exception of 12 U.S.C. 1785(a)(3), 12 U.S.C. 1786(w)(5)(A)(ii), and 15 U.S.C. 1639e(k), NCUA reviewed all of the CMPs in the table for inflation in 2009. The rounding procedure described in the next footnote resulted in some of these CMPs remaining at the same level. The year in parentheses is the last year the maximum CMP was actually increased, or, for 15 U.S.C. 1639e(k) and 42 U.S.C. 4012a(f)(5), the year that Congress set the maximum CMP amounts. The percentage change used in this column to determine the raw increase in each CMP is the difference between the June 2014 CPI-U (238.343) and the CPI-U for June of the relevant year noted in parentheses, divided by the CPI-U for June of the relevant year. The CPI-U figures are available at <http://www.bls.gov/cpi/>.

<sup>7</sup> The FCPIA Act's rounding rules require that an increase of a CMP be rounded to the nearest multiple of: \$10 in the case of penalties less than or equal to \$100; \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000; \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000; \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000; \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and \$25,000 in the case of penalties greater than \$200,000. Section 5(a) of the FCPIA Act, 28 U.S.C. 2461 note. Also, the first adjustment of any penalty is limited to 10 percent of the maximum penalty amount. Public Law 104-134, § 31001(s)(2), codified at 28 U.S.C. 2461 note. The 10 percent cap only affects the increase of the CMP under 12 U.S.C. 1786(w)(5)(A)(ii).

Below, the Board describes the three CMPs that NCUA is reviewing for adjustment for the first time and the additional CMP that Congress changed in 2012. The Board does not describe the other CMPs included in the table above, as NCUA reviewed all of the other CMPs for inflation in 2009 and made adjustments as appropriate under the rounding procedure.

1. 12 U.S.C. 1785(a)(3)

Federally insured credit unions must display signs relating to the insurance of share accounts.<sup>8</sup> Under the Federal Credit Union Act, the Board may impose a penalty of \$100 for each day that a federally insured credit union violates this requirement or the Board's implementing regulations.<sup>9</sup> The Board has prescribed regulations on this subject.<sup>10</sup> Congress added this penalty to the Federal Credit Union Act in 2006,<sup>11</sup> but it was not effective until 2007.<sup>12</sup>

2. 12 U.S.C. 1786(w)(5)(A)(ii)

Congress amended the Federal Credit Union Act in 2004 to impose post-

<sup>8</sup> 12 U.S.C. 1785(a)(1).

<sup>9</sup> 12 U.S.C. 1785(a)(3).

<sup>10</sup> 12 CFR 740.4.

<sup>11</sup> Public Law 109-173, section 2, 119 Stat. 3604-605 (Feb. 15, 2006).

<sup>12</sup> Congress set the effective date for section 2 of Public Law 109-173, including the penalty provision, as the date on which the final regulations required by section 2109(a)(2) of the Federal Insurance Reform Act of 2005 took effect. *Id.* Section 2(e). These regulations took effect on January 1, 2007. 71 FR 69323-01 (Nov. 30, 2006). Accordingly, the Board refers to the CPI-U for June 2007 to adjust this CMP for inflation.

NCUA employment restrictions on NCUA senior examiners.<sup>13</sup> The provision authorizes the Board to impose a CMP of not more than \$250,000 in an administrative proceeding or civil action against former NCUA senior examiners who violate conflict-of-interest restrictions that apply to their post-NCUA employment.<sup>14</sup> The Board has prescribed regulations to implement these restrictions and is making a conforming amendment to the penalty amount set forth in that part.<sup>15</sup>

3. 15 U.S.C. 1639e(k)

The Dodd-Frank Wall Street Reform and Consumer Protection Act<sup>16</sup>

<sup>13</sup> Public Law 108-458, section 6303(c), 118 Stat. 3753-754 (Dec. 17, 2004). Section 6303(d) stated that this provision would take effect at the end of the 12-month period following its enactment. The public law was enacted on December 17, 2004, so the CMP became effective in 2005. The Board uses the June 2005 CPI-U to adjust this CMP for inflation.

<sup>14</sup> 12 U.S.C. 1785(w)(5)(A)(ii).

<sup>15</sup> 12 CFR 796.5.

<sup>16</sup> Public Law 111-203, title XIV, section 1472(a), 124 Stat. 2187-190 (Jul. 21, 2010). Title XIV, Section 1400(c) stated that any section or provision of that title would become effective once the regulation implementing the section or provision became effective. On October 28, 2010, the Board of Governors of the Federal Reserve System published an interim final rule to implement the appraisal independence section, as required by 15 U.S.C. 1639e(g)(2). 75 FR 66554 (Oct. 28, 2010). The interim final rule had an effective date of December 27, 2010. Compliance with the new standards, however, was optional until April 2011, which means that the Board and other agencies could not have imposed a penalty for violating this law before 2011. Therefore, the Board refers to the June 2011 CPI-U to adjust this CMP for inflation.

amended the Truth in Lending Act to establish independence standards for property appraisals. The provision authorizes the Board and other federal agencies to assess a civil penalty against persons who violate regulations implementing this law.<sup>17</sup>

#### 4. 42 U.S.C. 4012a(f)(5)

The Board is authorized to impose CMPs against a credit union that is found to have a pattern or practice of committing certain specified actions in violation of the National Flood Insurance Program. The Board first adjusted this CMP for inflation in 2000.<sup>18</sup> At that time, 42 U.S.C. 4012a(f)(5) authorized a \$350 penalty for each violation, subject to an annual cap of \$100,000. The Board also adjusted this CMP for inflation in 2004<sup>19</sup> and 2009.<sup>20</sup> Congress amended this CMP in 2012 to increase the amount per violation to \$2,000 and eliminate the annual cap.<sup>21</sup> NCUA's calculation of inflation results in no increase to this modified CMP, but the Board includes this description to explain that the CMP has changed.

#### C. Conforming Amendments

The Board is also making conforming amendments to other parts of NCUA's regulations that state a specific maximum dollar amount for a CMP.<sup>22</sup> The final rule replaces the current specific dollar amounts with a non-numerical reference to the inflation-adjusted maximum amounts table at 12 CFR 747.1001.

### III. Regulatory Procedures

#### A. Final Rule Under the Administrative Procedure Act

The FCPIA Act requires adjustments of CMPs for inflation to occur at least every four years. Federal agencies have no discretion in calculating the adjustments. Thus, the Board cannot vary the amount of the adjustments to reflect any views or suggestions submitted by commenters. Further, the regulation is ministerial and technical. For all these reasons, public notice and comment for this new regulation is unnecessary, impracticable, and

<sup>17</sup> 15 U.S.C. 1639e(k) refers to 15 U.S.C. 1607(a), which authorizes the Board to enforce the appraisal independence requirements, among other provisions.

<sup>18</sup> 65 FR 57277 (Sept. 22, 2000).

<sup>19</sup> 69 FR 60077 (Oct. 7, 2004).

<sup>20</sup> 74 FR 9349 (Mar. 4, 2009).

<sup>21</sup> Public Law 112-141, section 100208, 126 Stat. 919 (Jul. 6, 2012). The Board refers to the June 2012 CPI-U to adjust this CMP because Congress set the modified CMP in 2012.

<sup>22</sup> 12 CFR 740.4(f); 12 CFR 741.4(k)(4)(i); 12 CFR 796.5(a)(2).

contrary to the public interest under the Administrative Procedure Act (APA).<sup>23</sup> For the same reasons, there is no good cause to impose a 30-day delayed effective date requirement under the APA.<sup>24</sup>

#### B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires the Board to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities.<sup>25</sup> For purposes of this analysis, the Board considers small credit unions to be those having under \$50 million in assets.<sup>26</sup> This final rule would not have a significant economic impact on a substantial number of small credit unions because it only affects the maximum amounts of CMPs that may be assessed in individual cases, which are not numerous and generally do not involve assessments at the maximum level. In addition, several of the CMPs are limited to a percentage of a credit union's assets. Finally, in assessing CMPs, the Board generally must consider a party's financial resources.<sup>27</sup> Because this final rule would affect few, if any, small entities, the Board certifies that the final rule will not have a significant economic impact on small entities.

#### C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden.<sup>28</sup> For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. This final rule adjusts the maximum amounts of certain CMPs that the Board may assess against individuals, entities, or credit unions but does not require any reporting or recordkeeping. Therefore, this final rule will not create new paperwork burdens or modify any existing paperwork burdens.

#### D. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles,

NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This final rule adjusts the maximum amounts of certain CMPs that the Board may assess against individuals, entities, and federally insured credit unions, including state-chartered credit unions. However, the final rule does not create any new authority or alter the underlying statutory authorities that enable the Board to assess CMPs. Accordingly, this rule will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The Board has determined this rule does not constitute a policy that has federalism implications for purposes of the executive order.

#### E. Assessment of Federal Regulations and Policies on Families

The Board has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.<sup>29</sup>

#### F. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996<sup>30</sup> (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where the Board issues a final rule as defined by Section 551 of the Administrative Procedure Act.<sup>31</sup> The Office of Management and Budget has determined that this final rule is not a "major rule" within the meaning of the relevant sections of SBREFA.

#### List of Subjects

##### 12 CFR Part 740

Advertisements, Credit unions.

##### 12 CFR Part 741

Credit, Credit unions, Reporting and recordkeeping requirements, Share insurance.

##### 12 CFR Part 747

Credit unions, Civil monetary penalties.

<sup>29</sup> Public Law 105-277, 112 Stat. 2681 (Oct. 21, 1998).

<sup>30</sup> Public Law 104-121, 110 Stat. 857 (Mar. 29, 1996).

<sup>31</sup> 5 U.S.C. 551.

<sup>23</sup> 5 U.S.C. 553(b)(3)(B).

<sup>24</sup> 5 U.S.C. 553(d)(3).

<sup>25</sup> 5 U.S.C. 603(a).

<sup>26</sup> Interpretive Ruling and Policy Statement 03-2, 68 FR 31949 (May 29, 2003), as amended by Interpretive Ruling and Policy Statement 13-1, 78 FR 4032 (Jan. 18, 2013).

<sup>27</sup> 12 U.S.C. 1786(k)(2)(G)(i).

<sup>28</sup> 44 U.S.C. 3507(d); 5 CFR part 1320.

12 CFR Part 796

Conflicts of interest, Credit unions, Ethical conduct, Government employees.

By the National Credit Union Administration Board on September 17, 2015.

**Gerard S. Poliquin,**  
*Secretary of the Board.*

For the reasons stated above, the NCUA Board amends 12 CFR parts 740, 741, 747, and 796 as follows:

**PART 740—ACCURACY OF ADVERTISING AND NOTICE OF INSURED STATUS**

■ 1. The authority citation for part 740 continues to read as follows:

**Authority:** 12 U.S.C. 1766, 1781, 1785, and 1789.

■ 2. In § 740.4, paragraph (f) is revised to read as follows:

**§ 740.4 Requirements for the official sign.**

\* \* \* \* \*

(f) An insured credit union that fails to comply with Section 205(a) of the Federal Credit Union Act regarding the

official sign, 12 U.S.C. 1785(a), or any requirement in this part is subject to a daily penalty in the amount set forth in § 747.1001 of this chapter.

**PART 741—REQUIREMENTS FOR INSURANCE**

■ 3. The authority citation for part 741 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1766(a), 1781–1790, and 1790d; 31 U.S.C. 3717.

■ 4. In § 741.4, paragraph (k)(4)(i) is revised to read as follows:

**§ 741.4 Insurance premium and one percent deposit.**

\* \* \* \* \*

(k) \* \* \*

(4) \* \* \*

(i) Section 202(d)(2)(B) of the Act (12 U.S.C. 1782(d)(2)(B)) provides that the Board may assess and collect a penalty from an insured credit union, up to the amount specified in § 747.1001 of this chapter, for each day the credit union fails or refuses to pay any deposit or premium due to the fund; and

\* \* \* \* \*

**PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTIGATIONS**

■ 5. The authority for part 747 is revised to read as follows:

**Authority:** 12 U.S.C. 1766, 1782, 1784, 1785, 1786, 1787, 1790a, 1790d; 15 U.S.C. 1639e; 42 U.S.C. 4012a; Pub. L. 101–410; Pub. L. 104–134; Pub. L. 109–351; 120 Stat. 1966.

■ 6. Section 747.1001 is revised to read as follows:

**§ 747.1001 Adjustment of civil monetary penalties by the rate of inflation.**

(a) NCUA is required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note)) to adjust the maximum amount of each civil monetary penalty within its jurisdiction by the rate of inflation. The following chart displays those adjustments, as calculated pursuant to the statute:

U.S. Code citation	CMP description	New maximum amount
(1) 12 U.S.C. 1782(a)(3) .....	Inadvertent failure to submit a report or the inadvertent submission of a false or misleading report.	\$3,200.
(2) 12 U.S.C. 1782(a)(3) .....	Non-inadvertent failure to submit a report or the non-inadvertent submission of a false or misleading report.	\$32,000.
(3) 12 U.S.C. 1782(a)(3) .....	Failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard.	\$1,425,000 or 1 percent of the total assets of the credit union, whichever is less.
(4) 12 U.S.C. 1782(d)(2)(A) .....	Tier 1 CMP for inadvertent failure to submit certified statement of insured shares and charges due to NCUSIF, or inadvertent submission of false or misleading statement.	\$3,200.
(5) 12 U.S.C. 1782(d)(2)(B) .....	Tier 2 CMP for non-inadvertent failure to submit certified statement or submission of false or misleading statement.	\$32,000.
(6) 12 U.S.C. 1782(d)(2)(C) .....	Tier 3 CMP for failure to submit a certified statement or the submission of a false or misleading statement done knowingly or with reckless disregard.	\$1,425,000 or 1 percent of the total assets of the credit union, whichever is less.
(7) 12 U.S.C. 1785(a)(3) .....	Non-compliance with insurance logo requirements .....	\$110.
(8) 12 U.S.C. 1785(e) (3) .....	Non-compliance with NCUA security requirements .....	\$110.
(9) 12 U.S.C. 1786(k)(2)(A) .....	Tier 1 CMP for violations of law, regulation, and other orders or agreements.	\$8,500.
(10) 12 U.S.C. 1786(k)(2)(A) .....	Tier 2 CMP for violations of law, regulation, and other orders or agreements and for recklessly engaging in unsafe or unsound practices or breaches of fiduciary duty.	\$42,500.
(11) 12 U.S.C. 1786(k)(2)(A) .....	Tier 3 CMP for knowingly committing the violations under Tier 1 or 2 (natural person).	For a person other than an insured credit union: \$1,525,000; For an insured credit union: \$1,525,000 or 1 percent of the total assets of the credit union, whichever is less.
(12) 12 U.S.C. 1786(w)(5)(ii) .....	Non-compliance with senior examiner post-employment restrictions ...	\$275,000.
(13) 15 U.S.C. 1639e(k) .....	Non-compliance with appraisal independence requirements .....	First violation: \$11,000 Subsequent violations: \$20,000.
(14) 42 U.S.C. 4012a(f)(5) .....	Non-compliance with flood insurance requirements .....	\$2,000.

(b) The adjustments displayed in paragraph (a) of this section apply to acts occurring after the date of publication in the **Federal Register**.

**PART 796—POST-EMPLOYMENT RESTRICTIONS FOR CERTAIN NCUA EXAMINERS**

■ 7. The authority citation for part 796 continues to read as follows:

Authority: 12 U.S.C. 1786(w).

■ 8. In § 796.5, paragraph (a)(2) is revised to read as follows:

**§ 796.5 What are the penalties for violating these special post-employment restrictions?**

(a) \* \* \*

(2) Assessed a civil monetary penalty up to the amount specified in § 747.1001 of this chapter.

\* \* \* \* \*

[FR Doc. 2015-24157 Filed 9-22-15; 8:45 am]

BILLING CODE 7535-01-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 23**

[Docket No. FAA-2015-3881; Special Conditions No. 23-267-SC]

**Special Conditions: Cirrus Design Corporation, SF50; Full Authority Digital Engine Control (FADEC) System**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Cirrus Design Corporation SF50 airplane. This airplane will have a novel or unusual design feature(s) associated with the use of an electronic engine control system instead of a traditional mechanical control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is September 23, 2015.

We must receive your comments by October 23, 2015.

**ADDRESSES:** Send comments identified by docket number FAA-2015-3881 using any of the following methods:

- Federal eRegulations Portal: Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- Mail: Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC, 20590-0001.

- Hand Delivery of Courier: Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

- Fax: Fax comments to Docket Operations at 202-493-2251.

**Privacy:** The FAA will post all comments it receives, without change, to <http://regulations.gov>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov>.

**Docket:** Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jeff Pretz, Federal Aviation Administration, Small Airplane Directorate, ACE-111, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329-3239; facsimile (816) 329-4090.

**SUPPLEMENTARY INFORMATION:** The FAA has determined, in accordance with 5 U.S.C. 553(b)(3)(B) and 553(d)(3), that notice and opportunity for prior public comment hereon are unnecessary because the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Special condition number	Company/airplane model
23-237-SC	Spectrum Aeronautical Model S-40.
23-246-SC	Cirrus Design Corporation Model SF50.
23-253-SC	Diamond Aircraft Industries Model DA-40NG.

**Comments Invited**

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

**Background**

On September 9, 2008, Cirrus Design Corporation applied for a type certificate for their new Model SF50. On December 11, 2012, Cirrus Design Corporation requested to revise the SF50 part 23 certification basis to include amendment 23-62. The Cirrus Design Corporation SF50 is a low-wing, seven-seat, single-engine turboprop-powered airplane. It incorporates an Electronic Flight Information System (EFIS), pressurized cabin, retractable gear, and a V-tail. The turboprop engine is mounted on the upper fuselage/tail cone along the aircraft centerline. It is constructed largely of carbon and fiberglass composite materials. Like other Cirrus products, the SF50 includes an airframe ballistic parachute system.

The model SF50 has a maximum operating altitude of 28,000 feet, where it cruises at speeds up to 300 knots true airspeed. Its maximum operating limit speed (V<sub>MO</sub>) will not exceed 0.62 Mach. The maximum takeoff weight will be at or below 6,000 pounds with a range at economy cruise of roughly 1,000 nautical miles. Cirrus intends for the SF50 to be certified for single-pilot operations under 14 CFR parts 91 and 135 operating rules. The following operating conditions will be included:

- Day and Night VFR
- IFR
- Flight Into Known Icing

The Cirrus Design Corporation SF50 airplane is equipped with a Williams International FJ33-5A turboprop engine, which uses an Electronic Engine Control