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## FTC Civil Penalties on the Rise—Inflation Adjustments Increase Civil Penalty Amounts

JULY 1, 2016

For the first time since 2009, the potential civil penalties for violating an administrative consent order under Section 5(b) of the FTC Act is going up. The maximum civil penalty the Federal Trade Commission (FTC) can now pursue for violations of its administrative orders regarding unfair or deceptive acts and practices has increased from \$16,000 to \$40,000 per violation.

Civil penalties are also being adjusted for a variety of laws within the FTC's jurisdiction. Specifically, maximum consumer protection-related penalties will increase as follows:

- [Section 5\(l\) of the FTC Act](#) (violations of final administrative Commission orders issued under section 5(b) of the FTC Act) – increase from \$16,000 to \$40,000;
- [Sections 5\(m\)\(1\)\(A\) and 5\(m\)\(1\)\(B\) of the FTC Act](#) (violations of certain trade regulation rules and other laws enforced by the FTC with civil penalty provisions, like CAN-SPAM, COPPA, and the Telemarketing Sales Rule) – increase from \$16,000 to \$40,000;
- [Section 10 of the FTC Act](#) (failure to file required reports)—increase from \$210 to \$525;
- [Section 6\(b\) of the Wool Products Labeling Act](#) (failure to maintain required records)—increase from \$210 to \$525;
- [Sections 3\(e\) and 8\(d\)\(2\) of the Fur Products Labeling Act](#) (failure to maintain required records)—increase from \$210 to \$525;
- [Section 333\(a\) of the Energy Policy and Conservation Act](#) (knowing violations of EPCA § 332, including labeling violations)—increase from \$210 to \$433;
- [Section 525\(a\) of the Energy Policy and Conservation Act](#) (recycled oil labeling violations)—increase from \$8,500 to \$21,250; and
- [Section 621\(a\)\(2\) of the Fair Credit Reporting Act](#) (knowing violations of the FCRA) – increase from \$3,500 to \$3,756.

The FTC's [interim final rule](#) explains that these adjusted penalties will take effect on August 1, 2016. Adjustments will apply only to penalties assessed after that date, though this will include future penalties for violations that predate August 1.

These increases are mandated by the [Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015](#), which required federal agencies to implement a “catch-up adjustment”

before July 1, 2016, to address inflation since their civil penalties were last adjusted by law. Agency discretion was limited only where this required adjustment might have a negative economic impact. Finding no such impact, the FTC made the maximum inflation adjustment to 150 percent of the civil penalties in effect on November 2, 2015.