

Increased Civil Monetary Penalties

A Segment in Our Retirement Rescue Series

The DOL has adjusted the civil monetary penalties based on the 2015 Inflation Adjustment Act, passed as part of the Bipartisan Budget Act of 2015. This new law directs agencies to adjust their civil monetary penalties for inflation on an annual basis, but current “catch-up” increases may leave Plan Sponsors with sticker shock.

Does your Plan need to be rescued?

The 2015 Inflation Adjustment Act

Civil monetary penalties are assessed to encourage compliance. However, if penalties are not increased over time, they may prove to decrease in effectiveness. Congress passed the 2015 Inflation Adjustment Act to arm federal agencies with the tools needed to better ensure regulatory compliance.

The 2015 Inflation Adjustment Act provides a formula to determine the proper adjustment for each penalty. The law requires federal agencies, including the Department of Labor, to adjust all civil monetary penalties for current inflation by July 1, 2016 and annually thereafter. The initial “catch-up” adjustment may seem steep because the penalties have not kept up with inflation for decades, according to the DOL.

The new inflation adjusted penalty amounts are applicable only to civil penalties assessed after August 1, 2016 for violations occurring after November 2, 2015, the enactment date of the 2015 Inflation Adjustment Act. Beginning in 2017, the DOL will adjust civil monetary penalties for inflation no later than January 15th of each year.

EBSA’s New Civil Monetary Penalties

Below is a sampling of the current and increased *maximum* penalty amounts enforceable by the DOL’s Employee Benefits Security Administration, EBSA. For a full list of the new DOL EBSA civil monetary penalties, please refer to the [Fact Sheet](#), released June 30, 2016, on the DOL website.

Description	Current Penalty Maximum	New Penalty Maximum
Failure to furnish reports to certain former participants & beneficiaries or maintain records	\$11 per employee	\$28 per employee
Failure or refusal to file Form 5500 annual report	\$1,100 per day	\$2,063 per day
Failure to notify participants of certain benefit restrictions &/or limitations	\$1,000 per day	\$1,632 per day
Failure to furnish automatic contribution arrangement notice	\$1,000 per day	\$1,632 per day
Failure to furnish a blackout notice	\$100 per day	\$131 per day
Prohibited Distribution	\$10,000 per distribution	\$15,909 per distribution

Fact Sheet: Interim Final Rule Adjusting ERISA Civil Monetary Penalties for Inflation. U.S. Department of Labor. Employee Benefits Security Administration. 30 June 2016.
Department of Labor - Inflation Adjustment Act IFR Frequently Asked Questions.