

WHAT YOU NEED TO KNOW



Interim Final Rule Updating the Penalties for Certain ERISA Violations

On July 1, 2016, the Department of Labor (DOL) issued an [interim final rule](#), effective August 1, 2016, to adjust the amounts of civil penalties as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. In order to improve the effectiveness of civil monetary penalties, maintain their deterrent effects, keep pace with inflation and promote compliance with the law, Congress enacted legislation requiring agencies to adjust the levels of civil monetary penalties with catch-up adjustments as well as annual adjustments to account for inflation. Future adjustments will be made by January 15 of each year, starting in 2017.

The interim final rule made adjustments to the civil monetary penalties enforced by the Employee Benefits Security Administration (EBSA) under the Employee Retirement Income Security Act of 1974 (ERISA). The adjustments apply to penalties assessed after August 1, 2016, whose violations occurred after November 2, 2015.

Some highlights of the new penalty amounts for ERISA violations include:

- The maximum penalty for failure/refusal to properly file a plan annual report (Form 5500) increased from \$1,100 per day to \$2,063 per day the Form 5500 is late.
- The maximum penalty for failure to provide a Summary of Benefits Coverage under the Public Health Services Act increased from \$1,000 per failure to \$1,087 per failure.
- The maximum penalty for failure to provide an automatic contribution arrangement notice under ERISA increased from \$1,000 per day to \$1,632 per day.
- The penalty for providing required CHIP notices under ERISA is increased from \$100 per day to \$110 per day
- The maximum penalty for failure of a multiple employer welfare arrangement (MEWA) to file a report required by regulations issued under ERISA increased from \$1,100 per day to \$1,502 per day.

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- The maximum penalty for failure to furnish reports (e.g., pension benefit statements) to former participants and beneficiaries or maintain records increased from \$11 per employee to \$28 per employee.
- The maximum penalty for failure to comply with ERISA requirements relating to genetic information increased from \$100 per day to \$110 per day.

A full chart with all the penalty adjustments may be found in [Appendix 1](#) of the Interim Final Rule.

The following five agencies are impacted by these changes: the Employee Benefits Security Administration, the Mine Safety and Health Administration, the Occupational Safety and Health Administration, the Office of Workers' Compensation Programs, and the Wage and Hour Division. The Office of Management and Budget (OMB) ensures uniform implementation of the adjusted penalties across agencies and that no adjustments exceed the statutory cap of 150 percent of the existing penalties.

Further Research

[DOL Interim Final Rule](#)

[DOL Fact Sheet on the Interim Final Rule Adjusting ERISA Civil Monetary Penalties for Inflation](#)

[DOL – Inflation Adjustment Act IFR Frequently Asked Questions](#)

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