



BOARD ACTION MEMORANDUM

TO: NCUA Board
DATE: September 12, 2016
FROM: Office of General Counsel
SUBJ: Part 747 - Statutory
Inflation Adjustment of
Civil Monetary Penalties

ACTION REQUESTED: Board approval to publish a Final Rule concerning the statutory inflation adjustment of NCUA's civil monetary penalties (CMPs).

DATE ACTION REQUESTED: October 27, 2016.

OTHER OFFICES CONSULTED: None.

VIEWS OF OTHER OFFICES CONSULTED: N/A.

SUBMITTED TO INSPECTOR GENERAL FOR REVIEW: Yes.

RESPONSIBLE STAFF MEMBERS: Senior Trial Attorney Ian Marenga.

SUMMARY: In June 2016, the Board issued an Interim Final Rule to amend Part 747 of NCUA's regulations on CMPs to adjust the maximum CMP amounts 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 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The Interim Final Rule went into effect within 30 days of publication in the Federal Register and included a request for comments. No comments were submitted.

The attached Final Rule adopts the adjustments made to the maximum levels of the CMPs by the Interim Final Rule without change.

Several, but not all, agencies issuing the required interim final rules have explained that they will not apply the statute retroactively to violations that occurred before Congress amended the statute in November 2015. The preamble of the Final Rule would clarify that NCUA's Interim Final Rule is not intended to apply retroactively.

RECOMMENDED ACTION: Recommend the Board approve publication of the Final Rule to confirm the changes made in the June 2016 Interim Final Rule.

ATTACHMENT: Final Rule.