

Commodity Futures Trading Commission

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request, the division or office's recommendation and the General Counsel's recommendation to the Commission for decision.

(f) Any payment under this section either to indemnify a Commodity Futures Trading Commission employee or to settle a personal damage claim shall be contingent upon the availability of appropriated funds of the Commodity Futures Trading Commission.

PART 143—COLLECTION OF CLAIMS OWED THE UNITED STATES ARISING FROM ACTIVITIES UNDER THE COMMISSION'S JURISDICTION

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AUTHORITY: 7 U.S.C. 9, 15, 9a, 12a(5), 13a, 13a-1(d), 13(a), 13b; 31 U.S.C. 3701-3720E; 28 U.S.C. 2461 note.

SOURCE: 50 FR 5384, Feb. 8, 1985, unless otherwise noted.

§ 143.1 Purpose.

This part provides procedures that the Commission will use to collect debts owed the United States arising from activities under the Commission's jurisdiction. As applicable, these procedures are based upon, and conform to, the Federal Claims Collection Act, as amended, 31 U.S.C. 3701-3720E; the Federal Claims Collection Standards, 31 CFR Parts 900-905, issued by the Department of the Treasury and the Department of Justice; administrative wage garnishment regulations issued by the Department of the Treasury, 31

CFR 285.11; and other laws applicable to the collection of non-tax debts owed to the United States arising from activities under the Commission's jurisdiction. Subpart A describes procedures for collection by offset against obligations of the United States to the debtor, by compromise, and by referral to the Department of Justice for litigation. It also sets forth the Commission's policy on collecting interest on unpaid claims, the method used in calculating such interest, and the maximum inflation-adjusted civil monetary penalties that may be assessed and enforced for each violation of the Commodity Exchange Act or regulations or orders of the Commission promulgated thereunder. Subpart B describes procedures for collection by administrative garnishment of the debtor's wages.

[69 FR 52997, Aug. 31, 2004]

Subpart A—General Provisions

§ 143.2 Notice of claim.

(a) The Commission will send a written notice to any person who owes payment to the United States under this part, stating the basis for the claim, the interest, penalties, and administrative costs that may be imposed for non-payment, and the date full payment is due.

(b) If the claim is disputed, the debtor shall respond to the notice in writing and state the reasons for non-payment. If the claim is not disputed but full payment is not made by the date indicated in the notice, the debtor shall state the reasons for the failure to make full payment.

(c) If no response or an unsatisfactory response is received by the date indicated in the notice, the Commission may take further action as appropriate under the Commodity Exchange Act or regulations thereunder, or under 31 CFR parts 900-905 or the Federal Claims Collection Act as amended, 31 U.S.C. 3701-3720E.

[50 FR 5384, Feb. 8, 1985, as amended at 69 FR 52997, Aug. 31, 2004]

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§ 143.3 Interest, penalty charges, and administrative costs.

(a) The Commission will assess interest on unpaid claims. The rate of interest assessed shall be the rate of the current value of funds to the U.S. Treasury (*i.e.*, the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury. The Commission will charge penalty fees of not more than 6 percent per year on any portion of a claim that is delinquent for more than 90 days. The Commission will also impose actual administrative costs to cover the processing and handling of delinquent claims.

(b) Interest on claims will be charged and will run from the date the notice of claim is mailed if the amount of the claim is not paid within 30 days from that date. Interest will be calculated only on the principal of the claim. The rate of interest charged is the rate in effect on the date from which interest begins to run. The rate will remain fixed for the duration of the indebtedness.

(c) The Commission may waive in whole or in part interest, penalty charges or administrative costs if it finds that:

(1) The debtor is unable to pay any significant sum within a reasonable period of time;

(2) Collection of interest or penalty charges jeopardizes collection of the principal of the claim; or

(3) It is in the best interests of the United States.

§ 143.4 Collection by offset.

(a) Whenever feasible, the Commission will collect claims under this part by means of administrative offset against obligations of the United States to the debtor.

(b) The Commission will notify the debtor in writing of its intent to use offset procedures to collect the debt unless the debtor agrees to repayment. The notice to the debtor shall include the type and amount of the claim and an explanation of the debtor's rights for records and review under 31 U.S.C. 3716(a).

(c) The Commission will seek to coordinate administrative offset with

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other federal agencies in accordance with 4 CFR part 102.

§ 143.5 Collection by compromise.

The Commission may settle claims not exceeding \$100,000 (excluding interest) by compromise at less than the principal amount of the claim if—

(a) The debtor shows an inability to pay the full amount within a reasonable period of time;

(b) The Government would be unable to enforce collection in full through litigation or administrative means within a reasonable period of time;

(c) The cost of collecting the claim in full is not justified by the amount of the claim; or

(d) The Commission's enforcement policy would be served by settlement of the claim for less than the full amount.

[50 FR 5384, Feb. 8, 1985, as amended at 57 FR 61292, Dec. 24, 1992]

§ 143.6 Referral for litigation.

Claims that cannot be collected by the Commission under this part or for which collection action cannot be ended or suspended under 4 CFR part 104 will be referred to the Department of Justice for litigation.

§ 143.7 Delegation of authority to the Executive Director.

(a) The Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director or to any Commission employee under the Executive Director's supervision as he or she may designate, authority to take action to carry out subpart A and subpart B of this part and the requirements of 31 CFR parts 900–905 and 31 CFR 285.11.

(b) Delegated waivers or compromise under this part shall be with the concurrence of the General Counsel and the Director of the Division of Enforcement or of their respective designees.

[50 FR 5384, Feb. 8, 1985, as amended at 69 FR 52997, Aug. 31, 2004]

§ 143.8 Inflation-adjusted civil monetary penalties.

(a) *Statutory inflation adjustment of civil monetary penalties.* The Inflation Adjustment Act of 1990, as amended, requires annual inflation adjustments

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to the civil monetary penalties imposed under the Commodity Exchange Act for violations that occurred on or after November 2, 2015. The Commission will publish notice of these adjusted penalty amounts in the FEDERAL REGISTER. The inflation adjustment is calculated by multiplying the maximum dollar amount of the civil monetary penalty for the previous calendar year by the cost-of-living inflation adjustment multiplier provided by the Office Management and Budget, which is based on the change in the Consumer Price Index, and rounding the total to the nearest dollar. Set forth in the

charts in paragraph (b) of this section are the inflation adjusted penalty amounts for violations occurring on or after November 2, 2015 and the penalty amounts for violations that occurred prior to November 2, 2015. These penalty charts are also available on the Commission's website at: <http://www.cftc.gov/LawRegulation/Enforcement/InflationAdjustedCivilMonetaryPenalties/index.htm>.

(b) *2021 Inflation adjustment.* The maximum amount of each civil monetary penalty in the following charts applies to penalties assessed after January 15, 2021:

(1) For non-manipulation or attempted manipulation violations:

TABLE 1 TO PARAGRAPH (b)(1)

U.S. Code citation	Civil monetary penalty description	Date of violation and corresponding penalty			
		10/23/2004 through 10/22/2008	10/23/2008 through 10/22/2012	10/23/2012 through 11/01/2015	11/02/2015 to present
Civil Monetary Penalty Imposed By The Commission In An Administrative Action					
7 U.S.C. 9 (Section 6(c) of the Commodity Exchange Act).	For any person other than a registered entity ¹ .	\$130,000	\$130,000	\$140,000	\$170,129
7 U.S.C. 13a (Section 6b of the Commodity Exchange Act).	For a registered entity ¹ or any of its directors, officers or employees.	625,000	675,000	700,000	937,161
Civil Monetary Penalty Imposed By A Federal District Court In A Civil Injunctive Action					
7 U.S.C. 13a-1 (Section 6c of the Commodity Exchange Act).	Any Person	130,000	140,000	140,000	187,432

¹The term "Registered Entity" is defined in 7 U.S.C. 1a (Section 1a of the Commodity Exchange Act).

(2) For manipulation or attempted manipulation violations:

TABLE 2 TO PARAGRAPH (b)(2)

U.S. Code citation	Civil monetary penalty description	Date of violation and corresponding penalty			
		10/23/2004 through 05/21/2008	05/22/2008 through 08/14/2011	08/15/2011 through 11/01/2015	11/02/2015 to present
Civil Monetary Penalty Imposed By The Commission In An Administrative Action					
7 U.S.C. 9 (Section 6(c) of the Commodity Exchange Act).	For any person other than a registered entity ¹ .	\$130,000	\$1,000,000	\$1,025,000	\$1,227,202
7 U.S.C. 13a (Section 6b of the Commodity Exchange Act).	For a registered entity ¹ or any of its directors, officers or employees.	625,000	1,000,000	1,025,000	1,227,202
Civil Monetary Penalty Imposed By A Federal District Court In A Civil Injunctive Action					
7 U.S.C. 13a-1 (Section 6c of the Commodity Exchange Act).	Any Person	130,000	1,000,000	1,025,000	1,227,202

¹The term "Registered Entity" is defined in 7 U.S.C. 1a (Section 1a of the Commodity Exchange Act).

[83 FR 9428, Mar. 6, 2018, as amended at 86 FR 7804, Feb. 2, 2021]

Subpart B—Administrative Wage Garnishment

SOURCE: 69 FR 52997, Aug. 31, 2004, unless otherwise noted.

§ 143.9 Administrative wage garnishment orders.

Whenever an individual owes the United States a delinquent non-tax debt arising from activities under the Commission’s jurisdiction, the Commission, or another federal agency collecting the debt on behalf of the Commission, may initiate administrative proceedings to garnish the disposable income of the delinquent debtor in accordance with the requirements of, and the procedures set forth in, 31 CFR 285.11. The Commission’s use of other debt-collection measures set forth in subpart A of this part does not preclude the initiation of an administrative wage garnishment proceeding against a delinquent debtor.

§ 143.10 Garnishment hearings.

Any oral or written hearing required to establish the Commission’s right to collect a delinquent debt through administrative wage garnishment shall be presided over by a hearing official designated by the Executive Director, with the concurrence of the General Counsel or the General Counsel’s designee. Any qualified and impartial employee of the Commission designated by the Executive Director may serve as a hearing official. Except as otherwise provided in this section, the hearing shall be conducted in accordance with the requirements of, and the procedures set forth in, 31 CFR 285.11(f). All documents presented to the hearing official for his or her consideration shall be marked as exhibits and retained in the record. All testimony given at an oral hearing, either in person or by telephone, shall be under oath or affirmation; a transcript of the hearing shall be prepared and made part of the record. When a debtor requests a hearing, the designated hearing official shall hold the hearing and issue his or her written decision within 60 days of the Commission’s receipt of the re-

quest, unless otherwise approved, in writing, by the Executive Director.

PART 144—PROCEDURES REGARDING THE DISCLOSURE OF INFORMATION AND THE TESTIMONY OF PRESENT OR FORMER OFFICERS AND EMPLOYEES IN RESPONSE TO SUBPOENAS OR OTHER DEMANDS OF A COURT

Sec.

- 144.0 Purpose and scope.
- 144.1 Service upon the Commission.
- 144.2 Service upon an employee or former employee of the Commission.
- 144.3 Testimony by present or former Commission employees.
- 144.4 Production or disclosure of records by present or former employees.
- 144.5 Procedures when production or disclosure of Commission records or information relating to Commission business is sought.
- 144.6 Fees.

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 4a(j) and 12a(5); 31 U.S.C. 9701, unless otherwise noted.

SOURCE: 50 FR 11149, Mar. 20, 1985, unless otherwise noted.

§ 144.0 Purpose and scope.

(a) The regulations in this part set forth procedures to be followed with respect to the disclosure, in response to a subpoena, order or other demand (collectively “demand”) of a court or other authority of any material contained in the files of the Commission, of any information relating to material contained in the files of the Commission or any information acquired by any person while such person is or was an employee of the Commission as part of the performance of that person’s official duties or by virtue of that person’s official status. Employee as used in this part includes both members and employees of the Commission. Demand as used in this part does not include requests for the production of documents in compliance with Fed. R. Civ. P. 34.

(b) Nothing in this part affects disclosure of information under the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, the Sunshine Act, 552b, or the