

**Federal Aviation Administration (FAA)—Continued
Airworthiness Directive (AD) 2001-02-03**

Docket No. 2000-SW-34-AD, Amendment 39-12087

Bell Helicopter Textron Canada

Subject: Inspecting and Modifying Collective Lever Assemblies

(i) Related Information	Transport Canada AD No. CF-2000-13, dated May 23, 2000.
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Issued in Fort Worth, Texas on January 18, 2001.

Henry A. Armstrong,
Manager, Rotorcraft Directorate, Aircraft
Certification Service.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 201

[Release Nos. 33-7946; 34-43897; IA-1921;
IC-24846]

Adjustments to Civil Monetary Penalty Amounts

AGENCY: Securities and Exchange
Commission.

ACTION: Final rule.

SUMMARY: This rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which requires that the Commission adopt a regulation adjusting for inflation the maximum amount of civil monetary penalties under the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940.

EFFECTIVE DATE: February 2, 2001.

FOR FURTHER INFORMATION CONTACT:
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Draeger, Attorney, Office of the General
Counsel at (202) 942-0852.

SUPPLEMENTARY INFORMATION:

I. Background

This regulation implements the Debt Collection Improvement Act of 1996 ("DCIA").¹ The DCIA amended the Federal Civil Penalties Inflation Adjustment Act of 1990 ("FCPIAA")² to require that each federal agency adopt regulations at least once every four years, adjusting for inflation the maximum amount of the civil monetary

penalties ("CMPs") under the statutes administered by the agency.³

A civil monetary penalty ("CMP") is defined in relevant part as any penalty, fine, or other sanction that: (1) Is for a specific amount, or has a maximum amount, as provided by federal law; and (2) is assessed or enforced by an agency in an administrative proceeding or by a federal court pursuant to federal law.⁴ This definition covers the monetary penalty provisions contained in the statutes administered by the Commission.

The DCIA requires that the penalties be adjusted by the cost-of-living adjustment set forth in Section 5 of the FCPIAA.⁵ The cost-of-living adjustment is defined as the percentage by which the U.S. Department of Labor's Consumer Price Index⁶ ("CPI") for the month of June for the year preceding the adjustment exceeds the CPI for the month of June for the year in which the amount of the penalty was last set or adjusted pursuant to law.⁷ The statute contains specific rules for rounding each increase based on the size of the penalty.⁸ Agencies do not have discretion in whether to adjust a maximum CMP, or the methods used to determine the adjustment. Although the DCIA imposed a 10 percent maximum increase for each penalty for the first adjustment pursuant thereto, which adjustment was made in 1996, that limitation does not apply to the adjustments subsequently made.

The Commission administers four statutes which provide for civil monetary penalties: the Securities Act of 1933; the Securities Exchange Act of 1934; the Investment Company Act of 1940; and the Investment Advisers Act of 1940. Penalties administered by the Commission were first adjusted by rules effective December 9, 1996.⁹ The DCIA requires the civil monetary penalties to be adjusted for inflation every four

years. Therefore, the Commission is directed by statute to increase the maximum amount of each penalty by the appropriate formulated amount.¹⁰

Accordingly, the Commission is adopting an amendment to 17 CFR 201 to add section 201.1002 and Table II to Subpart E, increasing the amount of each civil monetary penalty authorized by the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. The adjustments set forth in the amendment apply to violations occurring after the effective date of the amendment.

The amendment also provides for a revision to 17 CFR 201.1001 to clarify the time period for which the new adjustments to the civil monetary penalties will govern, and a revision to correct a typographical error in the earlier rule. The chart¹¹ accompanying the 1996 adjustments erroneously stated the amount of the CMP for a violation of 15 U.S.C. 78u(d)(3) by a natural person. The correct amount of the CMP for that violation is \$5,500, not \$5,000.

II. Summary of the Calculation

To explain the inflation adjustment calculation for CMP amounts that were last adjusted in 1996, we will use the following example. Under the CMP provisions, as amended in 1996, the Commission may impose a maximum CMP of \$1,100,000 for certain insider trading violations by a controlling person. First, we determine the appropriate CPI for June of the calendar year preceding the year of adjustment. Because we are adjusting CMPs in 2001, we use the CPI for June of 2000, which was 516.5. We must also determine the CPI for June of the year the CMP was last adjusted for inflation. Because the Commission last adjusted CMPs in 1996, we use the CPI for June of 1996, which was 469.5.

Second, we calculate the cost-of-living adjustment or inflation factor. To

¹ Pub. L. No. 104-134, section 31001(s) (April 26, 1996).

² 28 U.S.C. 2461 (1990).

³ An increased CMP applies only to violations that occur after the increase takes effect.

⁴ 28 U.S.C. 2461(3)(2).

⁵ Pub. L. No. 104-134.

⁶ "Consumer Price Index" means the Consumer Price Index for all urban consumers ("CPI-U") published by the Department of Labor.

⁷ 28 U.S.C. 2461(5)(b).

⁸ 28 U.S.C. 2461(5)(a)(1)-(6).

⁹ See 17 CFR 201.1001.

¹⁰ The CPI-All Urban Consumers—for June of the year in which the penalties were last adjusted (June 1996) was 469.5. The CPI for June of the year preceding the proposed adjustments (June 2000) was 516.5. Therefore, the inflation factor for the cost-of-living adjustment for penalties last amended in 1996 is 1.10 (i.e., an increase of 10%).

¹¹ 17 CFR 201, Subpart E, Table I.

do this we divide the CPI for June of 2000 (516.5) by the CPI for June of 1996 (469.5). Our result is 1.10 (*i.e.*, a 10 percent increase).

Third, we calculate the raw inflation adjustment. To do this, we multiply the maximum penalty amounts by the inflation factor. In our example, \$1,100,000 multiplied by the inflation factor of 1.10 equals \$1,210,000.

Fourth, we round the raw inflation amounts according to the rounding rules in Section 5(a) of the FCPIAA. Since we round only the increased amount, we calculate the increased amount by subtracting the current maximum penalty amounts from the raw maximum inflation adjustments. Accordingly, the increased amount for the maximum penalty in our example is \$110,000 (*i.e.*, \$1,210,000 less \$1,100,000). Under the rounding rules, if the penalty is greater than \$200,000, we round the increase to the nearest multiple of \$25,000. Therefore, the maximum penalty increase in our example is \$100,000.

Fifth, we add the rounded increase to the maximum penalty amount last set or adjusted. In our example, \$1,100,000 plus \$100,000 yields a maximum inflation adjustment penalty amount of \$1,200,000.¹²

III. Related Matters

A. Administrative Procedure Act—Immediate Effectiveness of Final Rule

To issue a final rule without public notice and comment, an agency must find good cause that notice and comment are impractical, unnecessary, or contrary to public interest.¹³ Because the Commission is required by statute to adjust the civil monetary penalties within its jurisdiction by the cost-of-living adjustment formula set forth in Section 5 of the FCPIAA, the Commission finds that good cause exists to dispense with public notice and comment pursuant to the notice and comment provisions of the Administrative Procedure Act

¹² When examining Table II to Subpart E of Part 201, you will notice that the operation of the statutorily mandated computation, together with rounding rules, does not result in any adjustment to certain penalties. These particular penalties (the ones for which no adjustment is being made in 2001) will be subject to slightly different treatment when calculating the 2005 adjustment. Under the statute, when we adjust these particular penalties in 2005, we will be required to use the CPI-U for June of the year when these particular penalties (the ones for which no adjustment is being made in 2001) were "last adjusted." When calculating the 2005 adjustment to the particular penalties not being adjusted in 2001, we will use the CPI-U for 1996 (the year that these particular penalties were last adjusted).

¹³ 5 U.S.C. 553(b).

("APA").¹⁴ Specifically, the Commission finds that because the adjustment is mandated by Congress and does not involve the exercise of Commission discretion or any policy judgments, public notice and comment is unnecessary.

Under the DCIA, agencies must make the required inflation adjustment to civil monetary penalties: (1) According to a very specific formula in the statute, and (2) within four years of the last inflation adjustment. Agencies have no discretion as to the amount or timing of the adjustment. The regulation and amendments discussed herein are ministerial, technical, and noncontroversial. Furthermore, because the regulation and amendments concern penalties for conduct that is already illegal under existing law, there is no need for effected parties to have thirty days prior to the effectiveness of the regulation and amendments during which to adjust their conduct. Accordingly, the Commission believes that there is good cause to make this regulation and amendments effective immediately upon publication.

B. Regulatory Flexibility Act

A regulatory flexibility analysis under the Regulatory Flexibility Act ("RFA") is required only when an agency must publish a general notice of proposed rulemaking for notice and comment.¹⁵ As already noted, notice and comment are not required for this final rule. Therefore, the RFA does not require a regulatory flexibility analysis.¹⁶

C. Cost-Benefit Analysis

The Commission considers generally the costs and benefits of its rules and regulations. The regulation and minor amendments merely adjust civil monetary penalties in accordance with inflation as required by the DCIA, and have no impact on disclosure or compliance costs. Furthermore, Congress, in mandating the inflationary adjustments, has already determined that any possible increase in costs is justified by the overall benefits of such adjustments.

The regulation and amendments are in the interest of the public and in furtherance of investor protection. The benefit provided by the inflationary adjustment to the maximum civil monetary penalties is that of maintaining the level of deterrence effectuated by the civil monetary penalties, and not allowing such

¹⁴ 5 U.S.C. 553(b)(3)(B).

¹⁵ 5 U.S.C. 603.

¹⁶ 5 U.S.C. 601-612.

deterrent effect to be diminished by inflation.

D. Paperwork Reduction Act

This rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995 as amended.¹⁷ Therefore, Office of Management and Budget review is not required.

List of Subjects in 17 CFR Part 201

Administrative practice and procedure, Claims, Confidential business information, Lawyers, Securities.

Text of Amendment

For the reasons set forth in the preamble, part 201, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 201—RULES OF PRACTICE

Subpart E—Adjustments to Civil Monetary Penalties

1. The authority citation for Part 201, Subpart E continues to read as follows:

Authority: Pub. L. 104-134, 110 Stat. 1321.

2. Section 201.1001 is revised to read as follows:

§ 201.1001 Adjustment of civil monetary penalties—1996.

As required by the Debt Collection Improvement Act of 1996, the maximum amounts of all civil monetary penalties under the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 are adjusted for inflation in accordance with Table I to this subpart. The adjustments set forth in Table I apply to violations occurring after December 9, 1996 and before February 2, 2001.

3. Table I to Subpart E for the entry 15 USC 78u(d)(3) is amended by revising "5,000" to read "5,500" in the last column.

4. Section 201.1002 and Table II to Subpart E are added following Table I to Subpart E to read as follows:

§ 201.1002 Adjustment of civil monetary penalties—2001.

As required by the Debt Collection Improvement Act of 1996, the maximum amounts of all civil monetary penalties under the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 are adjusted for inflation in accordance with Table II to this subpart. The adjustments set forth in Table II apply

¹⁷ 44 U.S.C. 3501 *et. seq.*

to violations occurring after February 2, 2001.

TABLE II TO SUBPART E—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Civil monetary penalty description	Year penalty amount was last adjusted	Maximum penalty amount pursuant to 1996 adjustment	Adjusted maximum penalty amount
Securities and Exchange Commission:				
15 USC 77t(d)	For natural person	1996	\$5,500	\$6,500
	For any other person	1996	55,000	60,000
	For natural person/fraud	1996	55,000	60,000
	For any other person/fraud	1996	275,000	300,000
	For natural person/substantial losses or risk of losses to others.	1996	110,000	120,000
	For any other person/substantial losses or risk of losses to others.	1996	550,000	600,000
15 USC 78ff(b)	Exchange Act/failure to file information documents, reports.	1996	110	110
15 USC 78ff(c)(1)(B)	Foreign Corrupt Practices—any issuer	1996	11,000	11,000
15 USC 78ff(c)(2)(C)	Foreign Corrupt Practices—any agent or stockholder acting on behalf of issuer.	1996	11,000	11,000
15 USC 78u-1(a)(3)	Insider Trading—controlling person	1996	1,100,000	1,200,000
15 USC 78u-2	For natural person	1996	5,500	6,500
	For any other person	1996	55,000	60,000
	For natural person/fraud	1996	55,000	60,000
	For any other person/fraud	1996	275,000	300,000
	For natural person/substantial losses to others/gains to self.	1996	110,000	120,000
	For any other person/substantial losses to others/gain to self.	1996	550,000	600,000
15 USC 78u(d)(3)	For natural person	1996	5,500	6,500
	For any other person	1996	55,000	60,000
	For natural person/fraud	1996	55,000	60,000
	For any other person/fraud	1996	275,000	300,000
	For natural person/substantial losses or risk of losses to others.	1996	110,000	120,000
	For any other person/substantial losses or risk of losses to others.	1996	550,000	600,000
15 USC 80a-9(d)	For natural person	1996	5,500	\$6,500
	For any other person	1996	55,000	60,000
	For natural person/fraud	1996	55,000	60,000
	For any other person/fraud	1996	275,000	300,000
	For natural person/substantial losses to others/gains to self.	1996	110,000	120,000
	For any other person/substantial losses to others/gain to self.	1996	550,000	600,000
15 USC 80a-41(e)	For natural person	1996	5,500	6,500
	For any other person	1996	55,000	60,000
	For natural person/fraud	1996	55,000	60,000
	For any other person/fraud	1996	275,000	300,000
	For natural person/substantial losses or risk of losses to others.	1996	110,000	120,000
	For any other person/substantial losses or risk of losses to others.	1996	550,000	600,000
15 USC 80b-3(i)	For natural person	1996	5,500	6,500
	For any other person	1996	55,000	60,000
	For natural person/fraud	1996	55,000	60,000
	For any other person/fraud	1996	275,000	300,000
	For natural person/substantial losses to others/gains to self.	1996	110,000	120,000
	For any other person/substantial losses to others/gain to self.	1996	550,000	600,000
15 USC 80b-9(e)	For natural person	1996	5,500	6,500
	For any other person	1996	55,000	60,000
	For natural person/fraud	1996	55,000	60,000
	For any other person/fraud	1996	275,000	300,000
	For natural person/substantial losses or risk of losses to others.	1996	110,000	120,000
	For any other person/substantial losses or risk of losses to others.	1996	550,000	600,000

Dated: January 29, 2001.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-2846 Filed 2-1-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33-7933; 34-43843; 35-27338; 39-2388; IC-24827]

RIN 3235-AG96

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (the Commission) is adopting revisions to the EDGAR Filer Manual (Release 7.5), Volume II—Modernized EDGARLink and is providing for their incorporation by reference into the Code of Federal Regulations. EDGAR Release 7.5, the most recent step in the Commission's modernization project, was implemented on November 27, 2000. The main purpose of EDGAR Release 7.5 was to deploy internal SEC software. **EFFECTIVE DATE:** February 2, 2001. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of February 2, 2001.

FOR FURTHER INFORMATION CONTACT: In the Office of Information Technology, Richard Heroux at (202) 942-8800; for questions concerning Investment Management company filings, Ruth Armfield Sanders, Senior Special Counsel, or Shaswat K. Das, Attorney, Division of Investment Management, at (202) 942-0978; and for questions concerning Corporation Finance company filings, Herbert Scholl, Office Chief, EDGAR and Information Analysis, Division of Corporation Finance, at (202) 942-2930.

SUPPLEMENTARY INFORMATION: Today we are adopting an updated Volume II—Modernized EDGARLink of the EDGAR Filer Manual (Filer Manual). The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system.¹ Volume II describes

the requirements for filing using modernized EDGARLink.²

Volume II of the Manual contains all the technical specifications for filers to submit filings using the new modernized EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.³ Filers should consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.⁴

EDGAR Release 7.5, the most recent step in the Commission's modernization project, was implemented on November 27, 2000. The main purpose of EDGAR Release 7.5 was to deploy internal SEC software. At the same time, certain updates and improvements were made to the EDGARLink system, which are now reflected in Filer Manual (Release 7.5), Volume II—Modernized EDGARLink.

We have added the form type 40-8B25, for investment companies requesting extension of time for filing certain information, documents or reports pursuant to Investment Company Act of 1940 Rule 8b-25(a). We have eliminated the previously rescinded forms DEF13E3 and PRE13E3 and F-6EF/A. We have modified the SRO (self-regulatory organization) field in EDGAR header information to accept the data item ISE (International Stock Exchange). As an aid to filers, we have also enhanced certain features of filing preparation under modernized EDGARLink. Finally, we have updated the filer manual to note the

Release No. 33-6986 (Apr. 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on June 23, 2000. See Release No. 33-7867 (June 14, 2000) [65 FR 39086].

² This is the Filer Assistance software we provide filers filing on the EDGAR system.

³ See Rule 301 of Regulation S-T (17 CFR 232.301).

⁴ See Release Nos. 33-6977 (Feb. 23, 1993) [58 FR 14628], IC-19284 (Feb. 23, 1993) [58 FR 14848], 35-25746 (Feb. 23, 1993) [58 FR 14999], and 33-6980 (Feb. 23, 1993) [58 FR 15009] in which we comprehensively discuss the rules we adopted to govern mandated electronic filing. See also Release No. 33-7122 (Dec. 19, 1994) [59 FR 67752], in which we made the EDGAR rules final and applicable to all domestic registrants; Release No. 33-7427 (July 1, 1997) [62 FR 36450], in which we adopted minor amendments to the EDGAR rules; Release No. 33-7472 (Oct. 24, 1997) [62 FR 58647], in which we announced that, as of January 1, 1998, we would not accept in paper filings that we require filers to submit electronically; Release No. 34-40935 (Jan. 12, 1999) [64 FR 2843], in which we made mandatory the electronic filing of Form 13F; Release No. 33-7684 (May 17, 1999) [64 FR 27888], in which we adopted amendments to implement the first stage of EDGAR modernization; and Release No. 33-7855 (April 24, 2000) [65 FR 24788], in which we implemented EDGAR Release 7.0.

discontinuation of the TRW/UUNET Private Mail Service, previously known as the CompuServe Public Data Network. The functions that had been provided by this service have been made available through the EDGAR Filing Website, <<https://www.edgarfiling.sec.gov>>.

We are also amending today rule 301 of Regulation S-T to provide for the incorporation by reference into the Code of Federal Regulations of the revisions to the Filer Manual. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

You may obtain paper copies of the updated Filer Manual at the following address: Public Reference Room, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0102. We will post electronic format copies on the Commission's Web Site; the address for the Filer Manual is <<http://www.sec.gov/asec/ofis/filerman.htm>>. You may also obtain copies from Disclosure Incorporated, the paper and microfiche contractor for the Commission, at (800) 638-8241.

Since the Filer Manual relates solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (APA).⁵ It follows that the requirements of the Regulatory Flexibility Act⁶ do not apply.

The effective date for the updated Filer Manual and the rule amendments is February 2, 2001. In accordance with the APA,⁷ we find that there is good cause to establish an effective date less than 30 days after publication of these rules. Because the revisions to Volume II do not require any significant adjustments in filing procedure, any hardship to affected persons due to not having additional time to adjust to changes in the manual is more than offset by the need for administrative expediency to conform the filer manual to recent system upgrades and to minimize filer confusion.

Statutory Basis

We are adopting the amendments to Regulation S-T under sections 6, 7, 8, 10, and 19(a) of the Securities Act,⁸ Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,⁹ Section 20 of the Public Utility Holding Company Act of 1935,¹⁰ Section 319 of

⁵ 5 U.S.C. 553(b).

⁶ 5 U.S.C. 601-612.

⁷ 5 U.S.C. 553(d)(3).

⁸ 15 U.S.C. 77f, 77g, 77h, 77j and 77s(a).

⁹ 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78w and 78ll.

¹⁰ 15 U.S.C. 79t.

¹ We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993.