

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1022

Fair Credit Reporting Act Disclosures

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; official interpretation.

SUMMARY: The Consumer Financial Protection Bureau (Bureau) is issuing this final rule amending an appendix for Regulation V, which implements the Fair Credit Reporting Act (FCRA). The Bureau is required to calculate annually the dollar amount of the maximum allowable charge for disclosures by a consumer reporting agency to a consumer pursuant to FCRA section 609; this final rule establishes the maximum allowable charge for the 2023 calendar year.

DATES: This final rule is effective January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Adrien Fernandez, Counsel, Thomas Dowell, Senior Counsel; Office of Regulations, at (202) 435-7700. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

The Bureau is amending Appendix O to Regulation V, which implements the FCRA, to establish the maximum allowable charge for disclosures by a consumer reporting agency to a consumer for 2023. The maximum allowable charge will be \$14.50 for 2023.

I. Background

Under section 609 of the FCRA, a consumer reporting agency must, upon a consumer's request, disclose to the consumer information in the consumer's file.¹ Section 612(a) of the FCRA gives consumers the right to a free file disclosure upon request once every 12 months from the nationwide consumer reporting agencies and nationwide specialty consumer reporting agencies.² Section 612 of the FCRA also gives consumers the right to a free file disclosure under certain other, specified circumstances.³ Where the consumer is not entitled to a free file disclosure, section 612(f)(1)(A) of the FCRA provides that a consumer reporting agency may impose a reasonable charge on a consumer for making a file disclosure. Section 612(f)(1)(A) of the FCRA provides that the charge for such a disclosure shall not exceed \$8.00 and shall be indicated to the consumer before making the file disclosure.⁴

Section 612(f)(2) of the FCRA also states that the \$8.00 maximum amount shall increase on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents.⁵ Such increases are based on the Consumer Price Index for All Urban Consumers (CPI-U), which is the most general Consumer Price Index and covers all urban consumers and all items.

II. Adjustment

For 2023, the ceiling on allowable charges under section 612(f) of the FCRA will be \$14.50, an increase of one dollar from 2022. The Bureau is using the \$8.00 amount set forth in section 612(f)(1)(A)(i) of the FCRA as the baseline for its calculation of the increase in the

¹ 15 U.S.C. 1681g.

² 15 U.S.C. 1681j(a).

³ 15 U.S.C. 1681j(b)-(d). The maximum allowable charge announced by the Bureau does not apply to requests made under section 612(a)-(d) of the FCRA. The charge does apply when a consumer who orders a file disclosure has already received a free annual file disclosure and does not otherwise qualify for an additional free file disclosure.

⁴ 15 U.S.C. 1681j(f)(1)(A).

⁵ 15 U.S.C. 1681j(f)(2).

ceiling on reasonable charges for certain disclosures made under section 609 of the FCRA. Since the effective date of section 612(a) was September 30, 1997, the Bureau calculated the proportional increase in the CPI-U from September 1997 to September 2022. The Bureau then determined what modification, if any, from the original base of \$8.00 should be made effective for 2023, given the requirement that fractional changes be rounded to the nearest fifty cents.

Between September 1997 and September 2022, the CPI-U increased by 84.124 percent from an index value of 161.2 in September 1997 to a value of 296.808 in September 2022. An increase of 84.124 percent in the \$8.00 base figure would lead to a figure of \$14.73. However, because the statute directs that the resulting figure be rounded to the nearest \$0.50, the maximum allowable charge is \$14.50. The Bureau therefore determines that the maximum allowable charge for the year 2023 will increase to \$14.50.

III. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.⁶ Pursuant to this final rule, in Regulation V, Appendix O is amended to update the maximum allowable charge for 2023 under section 612(f). The amendments in this final rule are technical and non-discretionary, as they merely apply the method previously established in Regulation V for determining adjustments to the thresholds. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. The amendments therefore are adopted in final form.

⁶ 5 U.S.C. 553(b)(B).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required.⁷ As noted previously, the Bureau has determined that it is unnecessary to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirement relating to an initial and final regulatory flexibility analysis do not apply.

C. Paperwork Reduction Act

The information collections contained in Regulation V, which implements the FCRA, are approved by Office of Management and Budget under Control number 3170-0002. The current approval for this control number expires on November 30, 2023. In accordance with the Paperwork Reduction Act of 1995,⁸ the Bureau reviewed this final rule. The Bureau has determined that this rule does not create any new information collections or substantially revise any existing collections.

D. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule taking effect. The Office of Information and Regulatory Affairs has designated this rule as not a "major rule" as defined by 5 U.S.C. 804(2).

IV. Signing Authority

⁷ 5 U.S.C. 603(a), 604(a).

⁸ 44 U.S.C. 3506; 5 CFR part 1320.

Senior Advisor Brian Shearer, having reviewed and approved this document, is delegating the authority to sign this document electronically to Grace Feola, Bureau Federal Register Liaison, for purposes of publication in the *Federal Register*.

List of Subjects in 12 CFR Part 1022

Banks, banking, Consumer protection, Credit unions, Holding companies, National banks, Privacy, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends Regulation V, 12 CFR part 1022, as set forth below:

PART 1022—FAIR CREDIT REPORTING (REGULATION V)

1. The authority citation for part 1022 continues to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1681a, 1681b, 1681c, 1681c-1, 1681e, 1681g, 1681i, 1681j, 1681m, 1681s, 1681s-2, 1681s-3, and 1681t; sec. 214, Pub. L. 108-159, 117 Stat. 1952.

2. Appendix O is revised to read as follows:

Appendix O to Part 1022—Reasonable Charges for Certain Disclosures

Section 612(f) of the FCRA, 15 U.S.C. 1681j(f), directs the Bureau to increase the maximum allowable charge a consumer reporting agency may impose for making a disclosure to the consumer pursuant to section 609 of the FCRA, 15 U.S.C. 1681g, on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents. The Bureau will publish notice of the maximum allowable charge each year by amending this appendix. For calendar year 2023, the maximum allowable charge is \$14.50. For historical purposes:

1. For calendar year 2012, the maximum allowable disclosure charge was \$11.50.

2. For calendar year 2013, the maximum allowable disclosure charge was \$11.50.
3. For calendar year 2014, the maximum allowable disclosure charge was \$11.50.
4. For calendar year 2015, the maximum allowable disclosure charge was \$12.00.
5. For calendar year 2016, the maximum allowable disclosure charge was \$12.00.
6. For calendar year 2017, the maximum allowable disclosure charge was \$12.00.
7. For calendar year 2018, the maximum allowable disclosure charge was \$12.00.
8. For calendar year 2019, the maximum allowable disclosure charge was \$12.50.
9. For calendar year 2020, the maximum allowable disclosure charge was \$12.50.
10. For calendar year 2021, the maximum allowable disclosure charge was \$13.00.
11. For calendar year 2022, the maximum allowable disclosure charge was \$13.50.
12. For calendar year 2023, the maximum allowable disclosure charge is \$14.50.

/s/ Grace Feola

Grace Feola,

Federal Register Liaison, Consumer Financial Protection Bureau.