

# Increases in Penalty Amounts for Plan Violations



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The President signed into law the 2015 Civil Penalties Inflation Adjustment Act on November 2, 2015. According to this new law, agencies must adjust the level of civil monetary penalties with an initial catch-up adjustment and then must start adjusting civil monetary penalties for inflation each year.

On June 30, 2016 the DOL issued an interim rule adjusting civil monetary penalties in accordance with the Inflation Adjustment Act. The adjustments issued on June 30 are catch-up adjustments applying to penalties assessed after August 1, 2016 for violations that occurred after November 2, 2015. Starting in 2017, civil penalties will be annually adjusted for inflation by January 15 each year. The new amounts will be for penalties occurring from October to October. For example, by January 15, 2017, the Department will adjust penalty amounts to reflect increases in inflation from October 2015 to October 2016.

The following pension penalties have been updated. **Most importantly, note that the penalty for failing to file Form 5500 has increased from \$1,100 per day to \$2,063 per day.**

ERISA Penalty Statute	Description of ERISA Violations	Current Penalty Amount	New Penalty Amount after August 1, 2016
ERISA §209(b)	Failure to furnish reports (e.g., benefit statements) to certain former participants and beneficiaries; failure to maintain records	Up to \$11 per employee	Up to \$28 per employee
ERISA §502(c)(2)	Failure or refusal to file annual report (Form 5500); and Failure of a multiemployer plan to certify endangered or critical status under ERISA §305(b)(3)(C)	Up to \$1,100 per day	Up to \$2,063 per day

ERISA §502(c)(4)	Failure to notify participants under ERISA §101(j) of certain benefit restrictions and/or limitations arising under IRC §436; Failure to furnish certain multiemployer plan financial and actuarial reports upon request under ERISA §101(k); Failure to furnish estimate of withdrawal liability upon request under ERISA §101(l); Failure to furnish automatic contribution arrangement notice under ERISA §514(e)(3)	Up to \$1,000 per day	Up to \$1,632 per day
ERISA §502(c)(6)	Failure to furnish information requested by Secretary of Labor under ERISA §104(a)(6)	Up to \$110 per day	Up to \$147 per day
ERISA §502(c)(7)	Failure to furnish a blackout notice under section 101(i) of ERISA or notice of the right to divest employer securities under section 101(m) of ERISA	Up to \$100 per day	Up to \$131 per day
ERISA §502(m)	Distribution prohibited by §206(e) of ERISA	Up to \$10,000 per distribution	Up to \$15,909 per distribution



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