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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 Bureau of Consumer Financial Protection (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 2020 calendar year.

DATES: This final rule is effective January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Rachel Ross, Attorney-Advisor; Kristen Phinnessee, 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 for Regulation V, which implements the FCRA, to establish the maximum allowable charge for disclosures by a consumer reporting agency to a consumer for 2020. The maximum allowable charge will remain at \$12.50 for 2020.

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 2020, the ceiling on allowable charges under section 612(f) of the FCRA will be \$12.50, unchanged from 2019. The Bureau is using the \$8.00 amount set forth in section

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).

612(f)(1)(A)(i) of the FCRA as the baseline for its calculation of the increase in the 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 2019. The Bureau then determined what modification, if any, from the original base of \$8.00 should be made effective for 2020, given the requirement that fractional changes be rounded to the nearest fifty cents.

Between September 1997 and September 2019, the CPI-U increased by 59.28 percent from an index value of 161.2 in September 1997 to a value of 256.759 in September 2019. An increase of 59.28 percent in the \$8.00 base figure would lead to a figure of \$12.74. However, because the statute directs that the resulting figure be rounded to the nearest \$0.50, the maximum allowable charge is \$12.50. The Bureau therefore determines that the maximum allowable charge for the year 2020 will remain at \$12.50.

III. Procedural Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act, 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 2020 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

⁶ 5 U.S.C. 553(b)(B).

and providing opportunity for public comment are unnecessary. The amendments therefore are adopted in final form.

B. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.⁷

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,⁸ the Bureau reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

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 (OIRA) has designated this rule as not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1022

Banks, Banking, Consumer protection, Credit unions, Fair Credit Reporting Act, Holding companies, National banks, Privacy, Reporting and recordkeeping requirements, Savings associations, State member banks.

⁷ 5 U.S.C. 603(a), 604(a).

⁸ 44 U.S.C. 3506; 5 CFR part 1320.

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, Public Law 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 2020, the maximum allowable charge is \$12.50. 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 is \$12.50.

Dated: November 20, 2019.

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Policy Associate Director, Bureau of Consumer Financial Protection.

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