

False Claims Act Penalties Double as of August 1, 2016

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On June 30, 2016, in connection with the November 2015 enactment of the Federal Civil Penalties Inflation Adjustment Act Improvements Act (the “2015 Civil Penalties Amendments,” 28 U.S.C. § 2461), the Department of Justice (DOJ) issued an [Interim Final Rule with Request for Comments](#) (Interim Rule) that adjusts for inflation civil monetary penalties, including almost doubling penalties for False Claims Act violations. The Interim Rule goes into effect on August 1, 2016.

The 2015 Civil Penalty Amendments substantially revised the prior provisions of the Inflation Adjustment Act and substituted a different statutory formula for calculating inflation adjustments on an annual basis.

Background

The False Claims Act is a federal law that prohibits anyone from submitting false or fraudulent claims to the federal government for payment. Specifically, the False Claims Act imposes liability on any person who “knowingly presents or causes to be presented a false or fraudulent claim for payment or approval; knowingly makes, uses or causes to be made or used, a false record or statement material to a false or fraudulent claim; conspires to commit a violation of the False Claims Act....or knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government.” See 31 U.S.C. § 3729(a).

The False Claims Act also contains explicit provisions that provide financial incentives for individuals, known as relators or “whistleblowers,” to allege fraud on behalf of the federal government and receive a percentage of the monetary recovery for their efforts and information.

Current False Claims Act penalties

The current False Claims Act civil penalties are between \$5,500 to \$11,000 per claim, plus three times the amount of damages which the federal government sustains because of the false claim.

Increased False Claims Act penalties effective August 1

As of August 1, 2016, False Claims Act civil penalties increase to between \$10,781.40 and \$21,562.80 per claim, plus three times the amount of damages that the federal government sustains because of the false claim. It is important to note that when False Claims Act penalties increase, so do the financial rewards for whistleblowers, increasing their incentive to allege false or fraudulent claims.

DOJ requests comments on the Interim Rule on or before August 29, 2016.

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