

Civil Penalty Fund

Frequently Asked Questions

Q1. What is the Civil Penalty Fund?

- A. When a person or company violates a federal consumer financial protection law, the Bureau can bring an enforcement proceeding against them. If that person or company is found to have violated the law, it may have to pay a civil penalty, also known as a civil money penalty. When the Bureau collects civil penalties, it deposits them in the Civil Penalty Fund. The Fund was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

Q2. How will the Bureau use funds in the Civil Penalty Fund?

- A. The Bureau will use the money in the Civil Penalty Fund to provide some compensation to consumers who were harmed by activities for which civil penalties have been imposed. The amount of compensation the Bureau provides will depend in part on compensation the victims have received from other sources. In addition, to the extent that victims cannot be located or it is otherwise not practicable to pay victims, the Bureau may use money in the Fund for consumer education and financial literacy programs. The Bureau has issued a Civil Penalty Fund rule that will more specifically govern how the Bureau uses the money in the Civil Penalty Fund.

Q3. Why did the Bureau release the Civil Penalty Fund rule and notice of proposed rulemaking?

- A. The Bureau is issuing a rule to inform the public about how it will use the money in the Civil Penalty Fund. The Bureau also is publishing a notice of proposed rulemaking (NPRM) seeking public input on the Civil Penalty Fund rule and ways it could improve the rule in the future.

Q4. When will the Civil Penalty Fund rule be effective?

- A. The Civil Penalty Fund rule will be effective the same day that it is published in the Federal Register.

Q5. When can I submit comments on the rule?

- A. Once the Federal Register publishes the notice of proposed rulemaking, we will be accepting comments on the rule for 60 days. Check back on <http://www.consumerfinance.gov/notice-and-comment/> for updates on when you may submit comments and for instructions on submitting them. The Bureau will review any comments it receives and may issue a revised rule in the future.

Q6. What does the rule do?

- A. The rule governs how the Bureau will use funds in the Civil Penalty Fund. First, the rule provides that the Bureau will designate a Fund Administrator who will manage the Civil Penalty Fund in accordance with the rule. Second, the rule explains the conditions under

which victims may receive payments from the Fund and the amounts that those payments may be. Third, the rule establishes procedures that the Fund Administrator will follow to decide how money in the Fund will be allocated, both to classes of victims and to consumer education and financial literacy programs. Fourth, the rule explains how payments will be distributed to victims. Finally, the rule requires the Fund Administrator to issue regular reports on how money in the Civil Penalty Fund has been used.

Q7. Who will manage the Fund on a day-to-day basis?

- A. The Civil Penalty Fund Administrator will manage the Fund. The Fund Administrator will report to the Chief Financial Officer.

Q8. The rule says that the “Civil Penalty Fund Governance Board” can advise the Fund Administrator on the administration of the Fund. Who sits on that Board?

- A. The Civil Penalty Fund Governance Board is chaired by the Bureau’s Chief of Staff and includes the Associate Director for Supervision, Enforcement, Fair Lending & Equal Opportunity; the Associate Director for Consumer Education & Engagement; the Chief Operating Officer; and the General Counsel.

Q9. Will victims only receive payments from the civil penalties paid by the person or company that harmed them? Or can the Bureau use civil penalties collected in one case to pay victims of another case?

- A. All civil penalties are deposited into the Civil Penalty Fund, where they are pooled and can be used for payments to any eligible victim. Victims are not limited to receiving only what the person or company that harmed them paid into the Fund.

Q10. Who will receive payments from the Civil Penalty Fund?

- A. The Bureau may make Civil Penalty Fund payments to consumers who were harmed by a violation for which civil penalties were imposed and who aren’t otherwise expected to get full compensation for their compensable harm, as described by the rule. The Bureau hopes to make payments to all such victims, but whether it will be able to will depend on the amount of money in the Fund and other factors.

Every six months, the Fund Administrator will determine which classes of victims will receive payments from the Fund. To make that determination, the Fund Administrator will assess how much money is available in the Fund and will review closed cases to determine which victims are eligible to receive payments. The Fund Administrator will then follow the procedures established in the rule to allocate funds to “classes” of victims—that is, to groups of victims from a case that suffered from the same kind of violation. Once funds are allocated to a class of victims, we will begin the process of distributing payments to victims in that class.

Q11. How can I find out if I'll receive payment from the Civil Penalty Fund?

- A. The Civil Penalty Fund webpage will list those cases with classes of victims to which we'll distribute payments. The Fund Administrator will allocate funds to classes of victims every six months and will update the list to reflect those allocations. As of 4/26/2013, no allocations have been made. In general, we will contact you if you might be eligible for payment. Please refer to www.consumerfinance.gov/budget/civil-penalty-fund/ for updates on allocations.

Q12. How much money will victims receive?

- A. Under the rule, victims may receive up to the amount of their uncompensated harm from the Fund. The rule describes what will constitute victims' "uncompensated harm" for purposes of payment from the Civil Penalty Fund. The Civil Penalty Fund is not intended as a complete replacement for other sources of compensation. Depending on the circumstances of a case, the amount that the Bureau might pay from the Fund may provide only partial compensation for the full scope of victims' harm. The amount that victims will actually receive will depend on how much money is in the Fund and other factors.

Q13. How do you determine the amount of a victim's "uncompensated harm" that can be compensated from the Fund?

- A. To determine the amount of a victim's uncompensated harm, the Fund Administrator will take the victim's total compensable harm, and subtract out any compensation that the victim has received—or is reasonably expected to receive—for that harm. The Fund Administrator will determine the victim's total compensable harm by looking to the terms of the relevant court or administrative order. If the amount of a victim's compensable harm cannot be determined based on the terms of the relevant order, the victim's compensable harm generally will be his or her out-of-pocket losses that resulted from the violation.

Q14. How does the Fund Administrator decide how much money victims will receive?

- A. The rule establishes procedures that the Fund Administrator will follow to decide how much money victims will receive. If there is enough money available, the Fund Administrator generally will allocate funds so as to give all eligible victims full compensation for their uncompensated harm, as described in the rule. The rule also establishes procedures for the Fund Administrator to follow if there isn't enough money available in the Fund to compensate everyone fully.

Q15. What does it mean to "allocate" funds?

- A. Allocating funds means setting aside money for a specific purpose. For purposes of the Civil Penalty Fund, the Fund Administrator "allocates" funds when he sets aside money from the Civil Penalty Fund for payments to particular classes of victims, or for use on consumer education and financial literacy programs.

Q16. When will the Fund Administrator decide how to use money in the Fund?

- A. Under the rule, the Fund Administrator will decide how to use money in the Fund every six months. In particular, every six months, the Fund Administrator will allocate funds to

particular classes of victims and, if appropriate, for consumer education and financial literacy programs. The Fund Administrator will post a schedule on consumerfinance.gov that will show when these allocations will occur. Under the planned schedule, the first allocation of funds will occur by May 30.

Q17. When will the Bureau begin distributing funds to consumers?

- A. Once the Fund Administrator allocates funds to a class of victims, the Bureau will begin the process of distributing payments to the victims in that class. In some cases, that may include identifying and locating the victims in the class. When the first payments will be distributed to individual victims will depend on how long that process takes. The Fund Administrator will allocate funds to classes of victims by May 30. After that, the Fund Administrator will make the next allocation between October 1 and November 29.

Q18. What will happen if there is more money in the Fund than is needed to give all eligible victims full compensation for their uncompensated harm?

- A. If there is more than enough money in the Civil Penalty Fund to compensate fully all eligible victims' uncompensated harm, the Bureau generally will first provide full compensation to all eligible victims to the extent practicable. Then, it may allocate remaining funds for consumer education and financial literacy programs, and/or it may keep money in the Fund for future victims.

Q19. What will happen if there is not enough money in the Fund to give all eligible victims full compensation for their uncompensated harm?

- A. If, at the time of a scheduled allocation, there is not enough money available in the Civil Penalty Fund to provide full compensation for all eligible victims' uncompensated harm, the Fund Administrator will allocate funds equitably among the classes of victims from the most recent six-month period, who have not yet had an opportunity to receive an allocation from the Fund. The Fund Administrator will then allocate funds to classes of victims from preceding six-month periods if funds remain. If there is not enough money to give full compensation to all eligible victims who could practicably be paid, no money will be allocated for consumer education and financial literacy programs.

Q20. How will funds be allocated to consumer education and financial literacy programs?

- A. Every six months, the Fund Administrator will decide how much money, if any, to allocate for consumer education and financial literacy programs. The first priority will always be to allocate funds for payments to victims. However, if funds remain after allocating enough money to provide full compensation to all eligible victims who can practicably be paid, the Fund Administrator may allocate some or all of those remaining funds for consumer education and financial literacy programs.

Q21. What consumer education and financial literacy programs will the Bureau fund with Civil Penalty Fund money?

- A. The Bureau has adopted a set of [criteria](#) for selecting programs that will serve consumers and improve consumer education and financial literacy. The criteria require, among other

things, that programs further the Bureau's mission and strategic goals; promote or enhance financial literacy and consumers' economic security; and include specific outcome targets to ensure the programs' effectiveness.

The Bureau plans to use the federal [procurement process](#) for these programs and will post information about the process and contract requirements as Civil Penalty Fund money becomes available for consumer education and financial literacy programs.

Q22. How will consumer education and financial literacy programs be administered?

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Q23. Does the Civil Penalty Fund earn interest?

- A. The Civil Penalty Fund is maintained at the Federal Reserve Bank of New York in a non-interest-bearing account.

Q24. How much money is in the Civil Penalty Fund?

- A. As of 4/19/13, the fund has a balance of \$57,755,001. This money came in from 8 cases.

Q25. What kinds of services is the Bureau procuring in its solicitation for Bureau-Administered Redress and Civil Penalty Fund 3rd Party Administrator?

- A. The Fund Administrator, a position in the Office of the Chief Financial Officer, will maintain responsibility for allocating and distributing funds from the Civil Penalty Fund. The Bureau is seeking to procure one or more contractors to assist the Fund Administrator with administrative aspects of distributing payments to victims.

Q26. What is redress and how is it different from payments to victims from the Civil Penalty Fund?

- A. When the Bureau enforces the law, it or a court may order the person or company that violated the law to take action to remedy the harm it caused consumers. This can include requiring the person or company to compensate its victims for this harm. This compensation is generally called "redress." In some cases, the Bureau may require the person or company that violated the law to pay the redress directly to consumers. And in other cases the Bureau may require the person or company to pay the redress to the Bureau, and the Bureau will then distribute the redress money to the victims of that person or company's violations.

Civil money penalties and payments to victims from the Civil Penalty Fund are different. When a person or company that violated the law is ordered to pay a civil penalty, that penalty does not go directly to that person's or company's victims, but rather is put in the Civil Penalty Fund. All civil penalties that anyone pays to the Bureau are pooled in this common Fund. Money in the Civil Penalty Fund then may be used to pay any eligible victim in accordance with the Civil Penalty Fund rule.

The main difference between redress and Civil Penalty Fund payments is the link between who pays the money and who receives the money. When a person or company pays redress, that redress money can go only to victims of that person or company. When a person or company pays a civil penalty, that money goes into the Civil Penalty Fund and can be used to pay any eligible victim from any case.