



Date: February 25, 2015

File No.: 70000-00

Ref. No.: 0198

To: All CEOs/General Managers/Chief Agents of British Columbia Authorized Financial Institutions (Credit Unions, Trust Companies, P&C and Life Insurers)

Re: Non-Compliant Filings Administrative Penalty Guide – Final

The Financial Institutions Commission (FICOM) is issuing the final version of its Non-Compliant Filings Administrative Penalty Guideline (guideline). The guideline was developed to administer penalties ordered for contraventions of statutory filing requirements. The guideline is revised from the draft version released for consultation and has taken into consideration feedback from the financial institutions and other stakeholders.

Financial institutions are expected to be aware of its regulatory requirements, including its statutory filings deadlines and requirements, and to comply with them.

A guideline annex, addressing feedback from the consultation period, is attached for more information.

If you have any questions regarding the guideline, please contact Tiffany Mak, Senior Analyst, Information Management, at Tiffany.Mak@ficombc.ca.

Yours truly,

A handwritten signature in blue ink that reads "Frank Chong".

Frank Chong
Deputy Superintendent, Regulation

Enclosures

TM/ac

NON-COMPLIANT FILINGS ADMINISTRATIVE PENALTY GUIDELINE

Summary of Consultation Comments and Financial Institutions Commission (FICOM) Responses

TOPIC	INDUSTRY COMMENT	FICOM RESPONSE
<ul style="list-style-type: none"> • Discretion 	<ul style="list-style-type: none"> • The Guideline should define “normal circumstances”. • Consideration should be given to FIs who submit a plan to correct filing problems or who miss deadlines due to significant events. • Resets should occur after 3-5 years of clean filing. • Are there additional fines. • Under what circumstances will FICOM deem multiple penalties appropriate and would the same penalty be ordered against both FI and individual. 	<ul style="list-style-type: none"> • There is no specific definition as administrative penalties are levied at the discretion of the Commission. • Warnings are issued for a first time offence and extensions may be requested. • Repeat violation factors are forgiven after three years of clean record. See NFAP Guide for further details. • Penalties can be levied up to the amounts set out in the Administrative Penalties Regulation legislation. • Per legislation, there is only 1 penalty per offence, e.g. if a filing is both late and erroneous, there is only 1 penalty although the same penalty can be ordered against both the FI and individual
<ul style="list-style-type: none"> • Submissions & Extensions 	<ul style="list-style-type: none"> • Send reminder letters with list of required documents before year-end • When is electronic submission considered to be received and what forms of proof of transmission confirmation is accepted by FICOM • Should provide guidance on requesting extensions 	<ul style="list-style-type: none"> • All filing requirements are posted on FICOM’s web site • Documents are date stamped on receipt. FICOM is working on a secure file transfer system that will in the future provide electronic confirmation of submission • Filers needing an extension should contact FICOM as soon as possible in advance of a deadline.
<ul style="list-style-type: none"> • Appeals 	<ul style="list-style-type: none"> • What is considered a “reasonable” timeframe with respect to Oral Dispute Hearings • Independent mediator should be assigned to review file in dispute process • Concerns with tight timelines in dispute process 	<ul style="list-style-type: none"> • Generally, the Commission will try to schedule a meeting within 60 days. However, the time frame depends on the availability of the Commission. • The legislation states disputes are to be considered by the Commission or its delegate. Further appeal is possible through independent appeal processes via the Financial Services Tribunal or Supreme Court. • Timelines in the dispute process are stated in the legislation.

<ul style="list-style-type: none"> • Personal Information Returns (PIR) 	<ul style="list-style-type: none"> • PIR is an issue. Election takes place at annual general meeting and directors commence duties at the end of the meeting; impossible to submit PIR before commencing duties • Uncertain if a PIR is required for nominees. • If the Criminal Record Check (CRC) is delayed, is the PIR is considered incomplete. 	<ul style="list-style-type: none"> • In election situations where a successful nominee will immediately assume duties, PIRs should be submitted in advance. Refer to PIR FAQ for further details. • PIRs for nominees are not required. • If CRC is delayed, PIR is not considered incomplete, only the PIR form is required to be submitted before a director or senior officer commences duties, other documents like resume and CRC can be submitted later. Refer to PIR FAQ for further details.
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