

THE INSURANCE COMMISSION OF THE BAHAMAS



NOTICE

To: All Registered Insurers and Intermediaries
Date: December 20, 2018
**Re: Administrative Monetary Penalties for Supervised Financial Institutions under the
Financial Transactions Reporting Act, 2018 (FTRA)**

Introduction

The Insurance Commission of The Bahamas ("the Commission") is the prudential regulator for the carrying on of insurance business in and from within The Bahamas and the supervision of compliance with the Insurance Act, 2005 and the External Insurance Act, 2009. By virtue of section 207, Insurance Act and section 45, External Insurance Act, the Commission ensures the compliance by its registrants and licensees with the anti-money laundering (AML) and countering the financing of terrorism (CFT) legislation.

Insurance Companies and Intermediaries carrying on life insurance business

In May 2018, the new Financial Transactions Reporting Act (FTRA) was passed, enhancing the powers of the Commission in the imposition of penalties for non-compliance with AML/CFT provisions by financial institutions. These penalties are solely monetary penalties. Pursuant to section 57, FTRA, the Commission may impose penalties up to \$200,000 for breaches by companies and \$50,000 for breaches by individuals.

Notwithstanding section 57, FTRA, the Commission may also impose penalties (monetary or otherwise) under section 238, Insurance Act or section 60, External Insurance Act for AML/CFT breaches.

Insurance Companies and Intermediaries carrying on general insurance business

General insurance companies and intermediaries carrying on general insurance business are required to comply with sections 25 – 30, FTRA. The Commission is empowered to impose both administrative sanctions and monetary penalties for AML/CFT breaches by section 207, Insurance Act and section 45, External Insurance Act. These penalties can be found in section 238, Insurance Act and section 60, External Insurance Act and are applicable to individuals and companies.

Conclusion

Registrants and licensees of the Commission must familiarize themselves with penalties under the FTRA and insurance legislation. Additionally, registrants and licensees must be aware of all obligations under other AML/CFT legislation such as the Proceeds of Crime Act, 2018.

The attached Schedule outlines the policy of the Commission on the imposition of AML/CFT monetary penalties under the FTRA. The FTRA also sets out considerations for determination of the amount of a penalty.

This policy for administrative penalties for AML/CFT breaches takes effect December 31, 2018.



Michele C. E. Fields
Superintendent of Insurance

Attachment: Schedule of Administrative Monetary Penalties



SCHEDULE

FINANCIAL TRANSACTIONS REPORTING ACT, 2018 FINANCIAL TRANSACTIONS REPORTING REGULATIONS, 2018

Item	Description of Contravention/ Breach	Act or Regulation - Provision	BSD (\$) AMOUNT (PER VIOLATION)		Classification of Contravention/ Breach
			Corporate body or other legal entity	Individual	
1	Failure to carry out, document or update a risk assessment.	Section 5	Up to \$50,000	Up to \$25,000	Very Serious
2	Failure to undertake the identification of a facility holder or fulfil the identification or other requirements of the facility holder.	Sections 6(2) – 6(5)	Up to \$200,000	Up to \$50,000	Very Serious
3	Entering into a correspondent relationship and failing to apply the prescribed identification, information collection, and evaluative measures.	Sections 6 -11 and 16	Up to \$50,000	Up to \$25,000	Serious
4	Opening an anonymous account, or an account in a fictitious name for a facility holder.	Section 6(4)	Up to \$200,000	Up to \$50,000	Very Serious
5	Failure to maintain books and records as required.	Sections 15 and 16	Up to \$25,000	Up to \$15,000	Serious
6	Failure to fulfil the requirements of sections 5 through 9 and 14, and either carries out a transaction, or intentionally opens an account or establishes a business relationship.	Sections 5 – 9, 11(2), and 14	Up to \$200,000	Up to \$50,000	Very Serious
7	Failure to fulfil the requirements of sections 5 through 9 and 14; and then failure to terminate a business relationship.	Sections 5 – 9, 11(2), and 14	Up to \$50,000	Up to \$25,000	Serious
8	Failure to conduct ongoing due diligence with respect to the accounts and transactions of facility holders.	Section 12	Up to \$50,000	Up to \$25,000	Serious
9	Financial institution fails to comply with obligations for enhanced due diligence.	Section 13	Up to \$200,000	Up to \$50,000	Very Serious



10	Failure to maintain internal control programs.	Section 19, 21, 23	Up to \$50,000	Up to \$25,000	Very Serious
11	Failure to designate a Compliance Officer at a senior management level.	Section 20	Up to \$50,000	Up to \$25,000	Very Serious
12	Failure, without reasonable excuse, to retain or properly keep/destroy records.	Sections 15, 17 and 18	Up to \$50,000	Up to \$25,000	Very Serious
13	Failure to submit a suspicious transactions report to the Financial Intelligence Unit. **	Section 25 and 26. Regulation 14, FTRR	Up to \$200,000	Up to \$50,000	Very Serious
14	Failure to take reasonable measures to determine, prior to the time of pay-out on a life, or other investment related insurance whether the beneficiary or beneficial owner is a PEP.	Section 14(2)	Up to \$200,000	Up to \$50,000	Serious

Note:

- Per section 57(1) of the FTRA, the maximum penalty is \$50,000 if the violation is committed by an employee, director or senior manager of a financial institution, and \$200,000 if the violation is committed by a company.
- Penalties for individuals and companies will be assessed on a case-by-case basis using the factors outlined in section 57(4), and any applicable guidance developed by the Commission.
- Minor violations: \$1 - \$15,000 per violation
- Serious violations: \$1 - \$25,000 per violation
- Very Serious violations: \$1 - \$50,000 per violation (individuals) and \$1 - \$200,000 per violation (corporate body or legal entity)

**** This Notice and the related penalty are applicable to general insurers insofar as the obligation to report suspicious transactions.**

