



5-July-2021

REF: AML-2021/1

REGULATORY REMINDER

ENFORCEMENT FOR NON-COMPLIANCE

TO: FINANCIAL INSTITUTIONS

1.0 INTRODUCTION

1.1 The Financial Services Commission (Commission) reminds financial institutions that the Commission is empowered by the *Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011* (Act) to take enforcement action to ensure compliance with the Act. Authorized enforcement action includes the imposition of monetary penalties, suspension of any or all of a financial institution's activities or suspension or cancellation of licenses or registration of a financial institution. Before taking such action, the Commission will generally issue a warning or directive to the non-compliant financial institution.

2.0 FACTORS THE COMMISSION CONSIDERS

2.1 Factors the Commission considers in determining the level of enforcement action it will take against a financial institution include:

- a) The extent of the breach identified;
- b) The proactive measures or precautions which the financial institution or licensee took to prevent the breach or to mitigate the impact thereof;

- c) The previous disciplinary record and compliance history of the financial institution or licensee, including any adverse findings;
- d) The intent or negligence, if any, of the financial institution or licensee in committing the breach;
- e) The duration and frequency of the breach;
- f) Whether the financial institution took appropriate remedial actions efficiently with respect to the breach;
- g) The degree of co-operation with the Commission during the inspection, investigation, and/or inquiry;
- h) The likelihood of recurrence of the same type of breach if no suitable action is taken;
- i) The nature and extent of any false or inaccurate information provided, whether knowingly or inadvertently, resulted in the Commission being misled and;
- j) The need to encourage and enforce high standards of business conduct to deter future abuse and to bolster confidence in the financial services sector of Barbados;

The factors set out above are not exhaustive and the Commission may consider other factors, which may be relevant to a particular case.

3.0 Escalation Approach

3.1 Warning Letter

The Commission may issue a warning letter where a minor breach has been identified and not corrected in such time as the Commission requested.

3.2 Directive

A directive can be issued for a breach where the financial institution may have already received a letter and failed to correct the violation in such time as the Commission specified.

3.4 Pecuniary Penalties

Where a financial institution failed to respond to the Commission in the time specified under a directive, pecuniary penalties can be imposed in the amount of \$5,000.00. In addition, if the financial institution fails to remedy a breach by a specified time, a further fine of \$500.00 per day or part thereof may be imposed up to the maximum of 30 days.

3.5 Suspension or Revocation of Licence

In circumstances where the imposition of an administrative fine is not considered sufficient or, having issued a fine, further regulatory/disciplinary action is required, the Commission may suspend any or all of a financial institution's activities or suspend or revoke a financial institution's existing registration.

It must also be noted that the Commission reserves the right to utilize the method of enforcement action it deems effective based on the circumstances of a particular case.

4.0 OPPORTUNITY TO BE HEARD

4.1 Note that the financial institution is given an opportunity to be heard and show cause as to why the selected method of enforcement action should not be taken.

5.0 INSPECTIONS

- 5.1 Financial institutions are further reminded that the Commission may perform inspections to assess financial institutions' compliance pursuant to the Act.