

# THE COMPLIANCE COMMISSION'S 2020 TRAINING FOR REGISTRANTS

Topic: The Compliance Commission's  
Administrative Penalty Regime & Enforcement  
Program

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Date: December 17<sup>th</sup> & 18<sup>th</sup>, 2020



# Administrative Penalties

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## Section 57(1) of the Financial Transactions Reporting Act

Notwithstanding any penalties that may be imposed under this Act, any —

(a) Financial institution that fails to comply with any provision of this Act;

(b) Employee, director or senior manager of a financial institution who knowingly concurs in a failure to comply with any provision of this Act may be subject to an administrative penalty imposed by the Supervisory Authority with responsibility for regulating that financial institution and —

(i) in the case of a company, to a maximum penalty of two hundred thousand dollars;

(ii) in the case of an employee, director or a senior manager of a financial institution, to a maximum penalty of fifty thousand dollars.”

# Administrative Penalty Regime

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Compliance Commission of The Bahamas

## **NOTICE**

**POLICY ON ADMINISTRATIVE PENALTIES FOR CONSTITUENTS OF THE  
COMPLIANCE COMMISSION OF THE BAHAMAS UNDER THE FINANCIAL  
TRANSACTIONS REPORTING ACT 2018<sup>1</sup>**

Date Issued: February 6<sup>th</sup>, 2019

# What is an Administrative Penalty?

**SCHEDULE OF ADMINISTRATIVE MONETARY PENALTIES VIA THE FINANCIAL TRANSACTIONS REPORTING ACT 2018**

Offence	Section	Classification of Offence	Amount of Penalty for Financial Institution	Amount of Penalty for Individual
Failure to conduct, document, update or provide a risk assessment upon request to the Supervisory Authority.	5	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to identify a facility holder or obtain any other requirements of the facility holder and beneficial owners for customer due diligence.	6 - 10	Very Serious	Up to \$200,000.	Up to \$50,000.
Establishing or maintaining an anonymous account or an account in a fictitious name.	6(4)	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to fulfil the requirements of sections 5 – 9 and 14 and either opens an account or establishes a business relationship; carries out a transaction; or fails to terminate a business relationship.	11	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to conduct ongoing customer due diligence regarding the transactions and accounts of facility holders.	12	Serious	Up to \$125,000.	Up to \$35,000.
Failure to apply enhanced customer due diligence obligations with respect to facility holders, beneficial owner or financial institutions.	13	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to establish a risk management system to determine whether a facility holder or beneficial owner is a politically exposed person.	14	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to maintain records with respect to facility holders or failure to provide such records in a timely basis when required by law.	15	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to maintain records in the manner as required.	16	Minor	Up to \$50,000.	Up to \$20,000.

Failure to destroy records after the expiry of 5 years from the date of the last transaction without reasonable cause.	17	Serious	Up to \$125,000.	Up to \$35,000.
Failure to develop and implement procedures to prevent activities related to identified risks.	19	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to designate a compliance officer.	20	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to implement internal controls with respect to a group of entities.	21	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to ensure compliance by a foreign subsidiary or branch with respect to obligations and/or the application of appropriate additional measures.	23	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to adhere to the prohibition with respect to establishing, operating or dealing with a shell bank domestically or internationally.	24	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to report suspicious transaction(s).	25 - 26	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to register with the Compliance Commission.	33(1)	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to notify the Compliance Commission of changes in registered office or principal place of business.	33(3)(a)	Serious	Up to \$125,000.	Up to \$35,000.
Failure to notify the Compliance Commission of changes in beneficial ownership, director, partner, compliance officer or money laundering reporting officer.	33(3)(b)	Serious	Up to \$125,000.	Up to \$35,000.
Failure to produce any record, information or explanation as required by the Compliance Commission.	34	Very Serious	Up to \$200,000.	Up to \$50,000.
Failure to comply with the Codes of Practice.	37	Very Serious	Up to \$200,000.	Up to \$50,000.

# Implementing an Administrative Penalty.

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## STEP 1:

A written warning is issued. (28 days to remedy breach)

## STEP 2:

A follow up written warning is issued. (48 hours to remedy breach)

## STEP 3:

A penalty letter is issued.

# Factors Considered for the Amount of the Penalty

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- a. The gravity and duration of the contravention or failure;
- b. The degree of responsibility of the financial institution or person on whom the Commission proposes to implement the penalty;
- c. The financial strength of the financial institution or person;
- d. The amount of profit gained or loss avoided by the financial institution or person;
- e. The loss to third parties caused by the contravention;
- f. The level of cooperation of the financial institution or person with the Commission;
- g. Any previous contraventions; and
- h. Any potential systemic consequences of the contravention.

Thank you for your Time!

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Do you have  
any  
Questions?

