

# **VIRGIN ISLANDS**

## **FINANCIAL SERVICES**

### **(ADMINISTRATIVE PENALTIES) (AMENDMENT)**

#### **REGULATIONS, 2007**

#### **ARRANGEMENT OF REGULATIONS**

##### *Regulation*

1. Citation and commencement.
2. Regulation 2 amended.
3. Regulation 3 amended.
4. Regulation 4 amended.
5. Regulation 5 amended.
6. Regulation 5A inserted.
7. Regulation 7 amended.
8. Regulation 8 amended.
9. Schedule amended.
10. Schedule 2 inserted.

**VIRGIN ISLANDS**

**STATUTORY INSTRUMENT 2007 NO. 62**

**FINANCIAL SERVICES COMMISSION ACT, 2001**

**(No. 12 of 2001)**

**Financial Services (Administrative Penalties) (Amendment) Regulations, 2007**

[Gazetted 27<sup>th</sup> September, 2007]

The Executive Council, acting on the advice of the Commission and in exercise of the powers conferred by section 62 of the Financial Services Commission Act, 2001 (No. 12 of 2001) makes the following Regulations:

Citation and commencement.

**1.** These Regulations may be cited as the Financial Services (Administrative Penalties) (Amendment) Regulations, 2007 and shall come into effect on 31<sup>st</sup> July, 2007.

Regulation 2 amended. 86/2006

**2.** Regulation 2 of the Financial Services (Administrative Penalties) Regulations, 2006 (referred to in these Regulations as the “principal Regulations”) is amended

(a) by deleting subregulation (1) and substituting the following:

“(1) In these Regulations,

“the Act” means the Financial Services Commission Act, 2001;

“late payment penalty” means an administrative penalty imposed by the Commission under regulation 5A.”;

(b) in subregulation (2),

(i) by deleting the words “the Schedule” and substituting “the Schedules”; and

(ii) by deleting the words “any regulatory legislation” and substituting “unless the context otherwise requires, any financial services legislation”;

(c) in subregulation (3), by deleting the words “any regulatory legislation, the Regulatory Code or any directive issued by the Commission” and substituting “any financial services legislation or the Regulatory Code”;

(d) in subregulation (4), by deleting the words “the Schedule” and substituting “Schedule 1”; and

(e) by inserting after subregulation (4), the following subregulation:

“ (5) In determining whether a late payment penalty is payable by a licensee, a fee, charge or penalty is deemed not to have been paid until it is paid in full.”.

**3. Regulation 3 of the principal Regulations is amended**

Regulation 3 amended.

(a) by deleting subregulation (1) and substituting the following subregulations:

“ (1) This regulation and regulations 4 and 5 apply to any contravention, other than a contravention for which a late payment penalty is payable.

(1A) If the Commission considers that a licensee has committed a contravention to which this regulation applies, it may impose an administrative penalty on the licensee, with respect to the contravention, as provided for in this regulation and regulations 4 and 5.”;

(b) in subregulation (2)

(i) by deleting the word “subregulation (1)” and substituting “subregulation (1A)”; and

(ii) by deleting the words “the Schedule” and substituting “Schedule 1”; and

(c) by repealing subregulations (3) and (4).

**4. Regulation 4 of the principal Regulations is amended**

Regulation 4 amended.

(a) by inserting after the words “penalty on a licensee”, the words “for a contravention in respect of which this regulation applies”; and

(b) by repealing subregulation (7).

**5. Regulation 5 of the principal Regulations is amended by inserting after the words “on a licensee”, the words “under regulation 4”.**

Regulation 5 amended.

**6. The principal Regulations are amended by inserting after regulation 5, the following regulation:**

Regulation 5A inserted.

“Late payment penalty. Schedule 2 **5A.** (1) The Commission may impose an administrative penalty on a licensee in accordance with Schedule 2 where the licensee fails to pay

- (a) any fee or charge payable under the Act or any regulatory legislation; or
- (b) any penalty payable under these Regulations

on or before the date upon which the fee, charge or penalty is due for payment.

(2) Where the Commission decides to impose a late payment penalty on a licensee under subregulation (1), it shall send a penalty notice to the licensee stating

- (a) the fee, charge or penalty in respect of which the penalty is imposed; and
- (b) the amount of the proposed penalty calculated in accordance with Schedule 2.

(3) Subject to regulation 8(6), a licensee that receives a penalty notice shall pay the penalty stated in the notice to the Commission within fourteen days of receipt of the notice.”.

Regulation 7 amended.

**7. Regulation 7 of the principal Regulations is amended**

- (a) in subregulation (1), by inserting after the words “to a licensee”, the words “under regulation 3(1A)”
- (b) by inserting after the words “penalty on a licensee”, the words “for a contravention in respect of which this regulation applies”; and
- (c) by inserting after subregulation (2), the following subregulation:

“ (3) The Commission may not issue a penalty notice under regulation 5A more than six years after the date upon which the fee, charge or penalty became due for payment.”.

Regulation 8 amended.

**8. Regulation 8 of the principal Regulations is amended**

- (a) in subregulation (3), by deleting the words “the Schedule” and substituting “Schedule 1”;
- (b) by inserting after subregulation (2), the following subregulations:

“ (3) Where a licensee has, by reason of committing more than one contravention, become liable to more than one penalty, the Commission may compound the penalties.

(4) The Commission may agree to the payment of an administrative penalty in instalments over such period of time as it considers appropriate.”.

9. The Schedule is amended

Schedule amended.

- (a) by redesignating the Schedule as “Schedule 1”; and
- (b) in the table of administrative penalties, by deleting in the first column the provisions with respect to category 7 (late payment of fee or penalty) and the associated penalty in the second column, and substituting the following:

<p><b>“7. Late payment of fee or penalty</b></p> <p>Licensee</p> <ul style="list-style-type: none"> <li>(a) paying any fee or penalty required to be paid under any regulatory legislation or any penalty required to be paid under these Regulations more than 360 days after the date when fee or penalty is due; or</li> <li>(b) persistently paying fees or penalties required to be paid under any regulatory legislation or any penalty required to be paid under these Regulations after the date when fee or penalty is due.</li> </ul>	<p>\$500 to \$5,000</p> <p>In addition to any penalty payable in accordance with Schedule 2”</p>
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10. The principal Regulations are amended by inserting after Schedule 1, the following Schedule:

**“SCHEDULE 2**

**[Regulation 5A (1)]**

**LATE PAYMENT PENALTIES**

The following penalties are payable for the late payment of any fee or penalty payable under any regulatory legislation or for the late payment of any penalty payable under these Regulations

Description of Fee/Penalty	Penalty payable
<p><b>1. Penalties for late payment of fee or charge payable under any regulatory legislation</b></p> <p>For the late payment of a fee or charge payable under any regulatory legislation</p> <p>(a) Where the fee or charge is paid 1-30 days after due date</p> <p>(b) For each additional period of 30 days, or any part thereof, during which fee or charge remains unpaid</p>	<p>20% of fee or charge payable, subject to a minimum of \$80.00</p> <p>10% of fee or charge payable, subject to a minimum of \$20.00</p> <p>The maximum penalty payable under paragraphs (a) and (b) shall be 100% of the fee or charge payable</p>
<p><b>2. Penalty for late payment of administrative penalty, other than late payment penalty)</b></p> <p>For the late payment of an administrative penalty imposed under Schedule 1,</p> <p>(a) Penalty paid 1-30 days after due date</p> <p>(b) For each additional period of 30 days, or any part thereof, during which penalty remains unpaid</p>	<p>10% of penalty payable</p> <p>10% of penalty payable</p> <p>The maximum penalty payable under paragraphs (a) and (b) shall be 100% of the administrative</p>

	penalty payable”
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Made by the Executive Council this 16<sup>th</sup> day of August, 2007.

(Sgd.) SYMONE PENN,  
Ag. Clerk of the Executive Council.