



Penalty Guidelines effective 1 Jan 2014

Introduction and Application

- (1) This Penalty Guidelines ("PG") is a general point of reference for the Disciplinary Committee ("DC") of the Professional Insurance Brokers Association ("PIBA"), which are empowered by their respective Articles of Association to impose disciplinary penalties against relevant parties ("Subject") for breaches of Code of Conduct and/or Regulations and/or any other rules which PIBA may introduce from time to time.
- (2) This PG includes the common factors that the DC may take into account when determining the appropriate type and level of penalty to be imposed in a particular case. The penalty to be imposed shall be at the sole discretion of the DC and shall be within the DC's mandate.
- (3) This PG includes only those breaches set out in the Schedule. It does not pre-empt PIBA from promulgating other guidelines of its own for other breaches.
- (4) The DC is also free to make reference to this PG when deliberating on a breach not included herein or in any other guidelines hereafter promulgated by PIBA.
- (5) The imposition of penalty in accordance with this PG does not pre-empt the DC from ordering payment of costs incurred by PIBA, subject to mandate provided to the DC in its respective Articles of Association.
- (6) This PG may not be exhaustive, and could be revised or expanded when it is deemed necessary.

Aggravating and Mitigating Factors

- (7) The DC may take into account factors as they would deem appropriate including but not limited to the following in determining the severity of the penalty(ies) to be imposed against a Subject:-
 - (a) Whether committed intentionally, knowingly, recklessly, negligently or with premeditation;
 - (b) Whether a breach is committed alone or jointly with others;
 - (c) Extent of damage caused to the integrity and/or reputation of the profession;
 - (d) Extent of loss caused to or of costs incurred by others;
 - (e) Any remedial or rectification steps taken by the Subject to minimize any damage caused or to avoid or minimize the chance of reoccurrence;
 - (f) Extent of benefit, if any, obtained by the Member or the Subject or any third parties;
 - (g) Duration and frequency of breaches being complained of;
 - (h) Any previous disciplinary record of the Subject in past 5 years, especially where prior discipline is for the same or similar type of misconduct/breaches;

- (i) Any previous good conduct of and services to the community by the Subject;
- (j) Any references from peers, clients and community leaders in favour of the Subject;
- (k) Degree of cooperativeness and/or attitude of the Subject towards investigation or disciplinary proceedings (e.g. non-response to disciplinary enquiry, straight admission of having committed a breach, or timely and full self-reporting);
- (l) Any demonstration of remorse by the Subject;
- (m) The likely effect of the disciplinary decision on the Subject, including its financial implications on his/her livelihood.

Types of Penalty

- (8) Subject to their mandate in respect of Articles of Association, the DC may impose the following penalties against a Subject:-
 - (a) Prohibition, for a specified period of time, to be admitted as Member or registered as Chief Executive or Technical Representative of a Member (“Prohibition”);
 - (b) Expulsion from Membership (“Expulsion”) or removal from the Register(s) (“Removal”);
 - (c) Suspension, for a specified period of time from Membership or from being a registered CE or TR.;
 - (d) Fine, for a specified amount up to HK\$500,000;
 - (e) Reprimand;
 - (f) Warning;
 - (g) Any other penalty(ies) thought appropriate to be imposed by the DC.
- (9) A combination of penalties may be imposed by the DC.

Schedule of Penalties

- (10) As a general rule, prohibition, membership expulsion or removal from the register shall be the most severe penalties for a member broker or a registrant for breach of Code of Conduct, Regulations, and/or any other rules which PIBA may introduce from time to time. The pecuniary penalties set out against the breaches of particular rules or regulations in this Schedule are the maximum amounts for such type of breach(es), which may be imposed singly or together with other types of penalty(ies).
- (11) Based upon these maximum amounts, the DC may decide on the types and quantum of penalty(ies) due to any aggravating and/or mitigating factors.
- (12) The pecuniary penalty shall be in Hong Kong Dollars.

(13) The Schedule for pecuniary penalty (maximum)

<u>Breaches</u>	<u>Maximum Amount of Penalty (against Members)</u>	<u>Maximum Amount of Penalty (against relevant individual Subject)</u>
(a) Failure to maintain minimum paid-up capital or net asset	\$100,000	\$10,000
(b) Failure to maintain adequate professional indemnity insurance	\$250,000	\$25,000
(c) Failure to keep separate Client Account	\$500,000	\$50,000
(d) Failure to keep proper books and accounts	\$100,000	\$10,000
(e) (i) Failure to ensure that its Chief Executive, Technical Representatives, directors and/or controllers are fit and proper persons;	\$500,000	--
(ii) Be unfit or improper	--	\$50,000
(f) Failure to comply with the Code of Conduct / Regulation	\$500,000	\$500,000
(g) Failure to submit audited financial statement and/or auditor's compliance report when due	\$100,000	\$10,000
(h) Failure to fill up Chief Executive vacancy	\$250,000	--
(i) Engage in a non-permitted / non-registered line of business	\$250,000	\$50,000
(j) Fail to ensure CPD compliance or to comply with CPD requirement	\$50,000	\$5,000

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註冊有限公司 Incorporated with Limited Liability

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