



The Institute of Certified Bookkeepers

Disciplinary Sanctions

EFFECTIVE FROM AUGUST 2024

Where a member commits a breach of the Professional Conduct Regulations (PCR) or the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR) ICB may invoke financial and non-financial sanctions.

Where a member or practice is accused of a breach that does not appear here, but where the member or practice is being accused by ICB or another ICB member or by some third-party person or business or body, ICB shall have recourse to a Disciplinary Hearing as detailed separately.

FINES, PENALTIES AND SANCTIONS

ICB may impose financial and non-financial sanctions such as exclusion or suspension of membership, severe reprimand, reprimand, caution, order to undertake training, orders to repay client fees or commission. Any and all of these may be publicised.

If criminal activity is suspected, ICB will inform the relevant authorities.

Sanctions are designed to:

- Protect the public and the financial system
- Maintain the reputation of the bookkeeping profession
- Uphold proper standards of conduct within the bookkeeping profession
- Correct and deter misconduct

Sanctions are imposed after consideration of the following factors:

- If the breach was self-reported
- If the breach was deliberate, reckless, or unintended
- If the breach was an isolated failure or over a very short period
- If incorrect advice was given by ICB or other relevant authority
- If there was any benefit derived from the breach
- If there were adverse financial or other consequences on a client or third parties
- If there was any exposure to money laundering or other criminal activity because of the breach
- How the member or practice co-operates with ICB
- The compliance history of the member or practice
- The size of practice
- Any evidence of criminal intent or activity by the member or practice

DISCLOSURE OF A BREACH

ICB will consider the manner in which it became aware of a breach

Unprompted disclosure: Where a member informs ICB of a breach of the regulations before they have reason to believe that ICB either knows, or is about to discover it, this shall be deemed to be an unprompted disclosure.

Prompted disclosure: Where ICB discovers a breach of the regulations before a member has made an unprompted disclosure but where the member fully and openly admits the breach immediately when questioned, this shall be deemed to be a prompted disclosure.

Deliberate breach or concealment: Where a member is found to have deliberately set out to deceive, or tries to conceal the truth. This shall be regarded as deliberate concealment.

FAILURE TO REGISTER

With effect from the passing of the MLR any person or business deemed to be an Accountancy Service Provider (ASP) has been required to be approved by an appointed anti-money laundering (AML) Supervisory Authority. For the benefit of doubt; any person or practice offering a bookkeeping, accounting or payroll service by way of business, is deemed to be an accounting service provider whether that service is provided for reward or voluntarily, and regardless of whether that service constitutes the whole or a part of the business of that person or practice. ICB is listed under Schedule 1 of the MLR as a Supervisory Authority and as such is mandated to approve its members to practise.

In order to satisfy their obligations under the MLR and PCR all members who are eligible and who meet the criteria must apply for a Practice Licence before they commence trading and before they commence efforts to attract clients, whether for reward or voluntarily.

Whilst failure to register a practice at the correct time does not in itself indicate that the practice has been exposed to or involved in money laundering or other criminal activity, it is likely to indicate weaknesses in the controls of the practice. In ICB's experience, it is also an indication that the practice might be failing in other areas and that there is a culture of non-compliance.

Late registration penalties

Failure to register a practice is a breach of regulation 6 of the PCR and is likely also to breach Regulation 56 of the MLR.

Unprompted disclosure – Reprimand and a fine equal to the fees evaded since January 2009 or the date of the commencement of the practice, whichever is more recent, to cover any period of trading while unlicensed. If the practice is unable to provide satisfactory evidence of the actual date of commencement, ICB shall impose a date based on evidence available to it.

Prompted disclosure - £150.00 fixed penalty, reprimand and a fine equal to the fees evaded as above

Deliberate failure to disclose - £300.00 fixed penalty, severe reprimand and a fine equal to the fees evaded as above

FAILURE TO INFORM ICB OF CHANGES TO THE PRACTICE

To enable ICB to discharge its duties as a Supervisor, it requires up-to-date, accurate information about members and practices. A member or practice must provide all information as requested by ICB and update any changes as soon as is practical but not longer than fourteen days after any change has taken place.

The manner in which a member co-operates with ICB and makes efforts to rectify the breach will be taken into account. Failure to co-operate is a breach of PCR Regulation 19 and could be deemed to be a breach of Regulation 57 of the MLR and could lead to more significant penalties or the imposition of sanctions.

Should ICB identify any further breaches, penalties for these will be calculated separately.

Changes that must be reported to ICB include, but shall not be limited to, the following:

- Change of entity (such as from sole trader to limited liability company)
- Change of trading name
- Change of address and/or contact details
- Addition or removal of a Beneficial Owner, Officer or Manager (BOOM)
- Addition or removal of a member of staff, including temporary or contract staff
- Any other material changes to the practice
- Any person within the practice being subject to a criminal investigation or conviction
- Any person within the practice being subject to any disciplinary action or sanction
- The practice becoming or ceasing to be a Trust and Company Service Provider (TCSP)

Unprompted disclosure - £100.00 fixed penalty for each failure

Prompted disclosure - £150.00 fixed penalty for each failure

Deliberate breach or concealment - £300.00 fixed penalty for each failure

MLR COMPLIANCE REVIEWS

The Professional Standards Directorate shall carry out on-going inspections of practices across the full membership on a risk-sensitive basis or following intelligence or suspicions that a breach has occurred. ICB may also select practices for inspection at random.

Desk-based Reviews

The purpose of the desk-based reviews is to check the accuracy of the information held by ICB and where breaches are identified ICB shall take appropriate action, which might include an immediate fine or penalty or the practice might be selected for an in-person review either by video call or on-site. ICB shall use all available sources of information.

In-Person Reviews

ICB will carry out in-person reviews on a risk-sensitive basis or when prompted by a desk-based review.

When ICB advises a practice that it is to be reviewed, the practice must co-operate fully with the reviewer. The practice must make available such documentation as requested either before, during or after the visit, and make staff available for interview. Uncooperative behavior will be considered when determining what sanctions or other actions are needed. At the end of the review, the inspector will discuss their findings with the practice and will indicate that the practice has been found either:

- Compliant
- Generally compliant
- Non-compliant

Compliant – A compliant practice has effective systems and controls (including training) in place to both minimise the likelihood of the practice's involvement in financial crime, and report suspicious activity, with evidence that these policies, procedures and controls are used and reviewed for effectiveness on a regular basis.

Generally compliant - A generally compliant practice has systems and controls (including training) in place to both minimise the likelihood of the practice's involvement in financial crime, and report suspicious activity, but improvements can be made and/or there is a lack of evidence to demonstrate that the infrastructure is embedded into the practice or reviewed for effectiveness on a regular basis.

Non-compliant - A non-compliant practice is where the systems and controls (including training) within the practice are lacking to the extent that the practice would be vulnerable to exploitation by criminals in pursuit of disguising the proceeds of crime.

FINES FOR BREACHES OF THE MLR

The following list of breaches forms the basis of the reasons why a practice will be judged as non-compliant. These breaches guide ICB in assessing the severity of non-compliance and how able the practice is to remedy the breaches in a timely and effective manner. The reviewer shall also judge whether the practice demonstrates a proper understanding of the failures and can be relied upon to follow a proposed course of action to become compliant.

While members must adhere to the MLR in full, the following failures will be used by the ICB as the basis to decide the level of compliance of the practice:

- **Breach of Regulation 18** - Failure to have written Whole of Practice Risk Assessment and appropriate risk management processes in place
- **Breach of Regulation 19** - Failure to establish, monitor and manage the required risk-based policies, controls and procedures
- **Breach of Regulation 21-23** - Failure to implement sufficient Internal Controls
- **Breach of Regulation 24** - Failure to take appropriate measures to provide the required assessment and training of self and staff and maintain records
- **Breach of Regulation 26** - Failure to obtain supervisory body approval for any BOOM within the practice prior to appointment
- **Breach of Regulation 27 and 28** - Failure to apply appropriate and risk-sensitive customer due diligence measures when establishing a business relationship, failure to establish the Person of Significant Control, and failure to maintain ongoing monitoring
- **Breach of Regulation 30** - Failure to comply with the requirements on timing of verification of identity of clients and any beneficial owner
- **Breach of Regulation 31** - Failure to cease a transaction/business relationship where unable to apply customer due diligence measures
- **Breach of Regulation 33** - Failure to apply enhanced customer due diligence and ongoing monitoring where required
- **Breach of Regulation 35** - Failure to have in place appropriate risk-management systems for identifying Politically Exposed Persons and failure to continue EDD when person ceases to be a PEP
- **Breach of Regulation 39** - Failure to apply correct procedure when relying on third party CDD
- **Breach of Regulation 40** - Failure to keep the required records
- **Breach of Regulation 41** - Failure to notify clients that personal data will be processed only for purposes of preventing money laundering or terrorist financing
- **Breach of Regulation 56** - Failure to comply with the registration requirements relating to TCSP services

Unprompted disclosure - £200.00 starting penalty per breach

Prompted disclosure - £250.00 starting penalty per breach

Deliberate breach or concealment - £500.00 fixed penalty per breach

Breaches may in addition or alternatively lead to exclusion, suspension, severe reprimand, reprimand, or an order to undertake training.

FINES FOR BREACHES OF THE PCR

Breaches of the PCR may occur in isolation or alongside breaches of the MLR, including but limited to:

- Failure to provide ICB with proof of valid photo ID
- Failure to inform ICB of a criminal offence (including a Schedule 3 Offence) of a member, practice owner or any practice staff member
- Failure to inform ICB of being disqualified as a company director
- Failure to inform ICB of being disciplined or excluded by another professional body
- Failure to inform ICB of being made bankrupt or entering arrangements with creditors
- Evading inspection/disciplinary meetings
- Member holding client funds without prior written ICB Clearance
- Member giving tax advice, estate planning advice or investment services without prior written ICB clearance
- Member failing to hold sufficient Professional Indemnity Insurance
- Member undertaking work outside their qualifications or expertise
- Member describing themselves in a misleading manner (e.g. using a membership grade or protected title to which they are not entitled)
- Failure to annually review and update the practice policies, controls and procedures
- Clients not recorded or not reviewed annually on AML Online

Unprompted disclosure - £200.00 starting penalty per breach

Prompted disclosure - £250.00 starting penalty per breach

Deliberate breach or concealment - £500.00 fixed penalty per breach. Breaches may in addition or alternatively lead to exclusion, suspension, severe reprimand, reprimand, or an order to undertake training.

COSTS

In addition to sanctions, ICB may levy additional fees to cover costs.

OUTCOME

ICB will decide for what length of time a disciplinary sanction will remain live on a member's record. If the member is suspended or excluded, ICB will decide for what period the sanction will be imposed and for how long it will remain on a member's record. Where a member is suspended, ICB will decide what period should have elapsed before the member is eligible to reapply.

PUBLIC DUTY

In order to discharge its public duty as a professional body and Supervisory Authority under Schedule 1 of the MLR, ICB may publish details on its website and in its newsletter of sanctions imposed by ICB on members and practices.

MITIGATION

A member or practice wishing to appeal against a sanction imposed by ICB must write to the ICB Sanction Review Board within 21 days of the fine notice providing their full reasons for their appeal and providing comprehensive supporting evidence to enable the Board to make a judgement. When determining if the level of sanction imposed is fair and proportionate, the Panel will consider mitigating circumstances which shall include but not be limited to willingness to accept and introduce remedial actions, ill health, previous record and other factors the member or ICB may wish to be considered.

Common aggravating factors

- Adverse financial or other consequences on the client and / or third parties
- Correct advice given on proper conduct by ICB or another but was ignored
- Repeated failures and / or previous poor conduct
- Previous sanctions imposed by ICB or other regulatory bodies or Law enforcement for similar or other breaches or criminal activity

Common mitigating factors

- Incorrect advice given by ICB or another relevant authority
- Isolated failure and / or over a very short period
- No adverse financial or other consequences on the client or third parties
- Full cooperation with ICB during the investigation of the complaint
- Self-reported misconduct
- Breaches remedied / situation rectified
- Payment of compensation or restitution made to client and / or third parties