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# **Administrative Penalties: Frequently Asked Questions**

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## **ADMINISTRATIVE PENALTIES - FAQ**

Effective January 16, 2017, the ICE Futures Canada (“IFCA”) disciplinary process has been revised to include Administrative Penalty Provisions (“Administrative Penalties”) for certain Rule violations. For complete details, Rule 10 should be consulted.

### **1. What is an Administrative Penalty?**

An Administrative Penalty is a sanction, imposed by the Regulatory Division, for certain Rule violations. Administrative Penalties are limited in scope, and are applied as part of an expedited disciplinary process, which includes the possibility of Appeal by the Respondent.

### **2. Why were Administrative Penalties introduced?**

Rule 10 governs the Regulatory Division’s activity with respect to investigations and inspections. Prior to the introduction of Administrative Penalties, Rule 10 required that upon concluding an investigation or inspection, the Regulatory Division, had two options: 1) close the file; or 2) proceed to disciplinary action through the issuance of formal charges (known as an “Originating Notice”). The latter is a formal hearing process, which adheres to Canadian legal requirements on administrative tribunals, and which is time and resource intensive.

Certain Rule violations are less open to interpretation or discretion, with no subjective elements (such as “intent”) to be proven by the Regulatory Division at a hearing. In these situations, less-serious violations may lend themselves to a more streamlined disciplinary process. Many global exchanges and SROs have an expedited process similar to the IFCA Administrative Penalty process.

### **3. What are the possible sanctions under an Administrative Penalty?**

One or both of the following may be imposed as an Administrative Penalty:

- A letter, including but not limited to a Warning Letter with cease-and-desist instructions
- A fine of up to C\$5000 per Rule violation

### **4. What Rule violations may be the subject of an Administrative Penalty?**

- Rule 8D.14 (*Negotiated Option Strategy procedures*)

- Rules 8B.04 and Appendix C to Rule 8 (*User Identification requirements*)
- Rule 8A.08b (*Timing requirements of Cross Trades*)
- Rule 12 reporting requirements, including Annexures 12A, 12B, and 12C
- Rule 7 reporting requirements, including financial filings
- Rule 8B.14 (*Recording and Reporting of orders*)
- Rule 8C.03 and 8C.04 requirements (*EFP, EFS, and EOO*)
- Rules 15.17c. (*Reporting of shipment nominations*)

It is important to note that violations of these Rules are not limited to being addressed through Administrative Penalties. Depending on the nature and severity of the violation(s), an Originating Notice may be filed instead.

#### **5. What factors will be considered by the Regulatory Division, when determining the sanctions under an Administrative Penalty?**

Administrative Penalties may be assessed considering one or more of the following factors:

- The magnitude of the violation(s)
- The frequency of the violation(s)
- The market impact of the violation(s)
- The Respondent's prior disciplinary history
- Remedial actions taken by the Respondent

It is important to note that, in certain circumstances, the Regulatory Division may choose to proceed with the issuance of an Originating Notice rather than an Administrative Penalty.

#### **6. What is the process for the imposition of an Administrative Penalty?**

- a. Where it determines appropriate for violations of the Rules noted above, the Regulatory Division may issue an Administrative Penalty Letter (a "Letter"), which will set out the particulars of the Rule violations and stipulate the sanction(s).
- b. If no Appeal is filed within ten (10) business days, then the sanctions set out in the Letter take effect. Any fine imposed is due immediately.
- c. Nothing pertaining to Administrative Penalties is published to the website or otherwise made public.

#### **7. What is the process for appealing an Administrative Penalty?**

- a. Within ten (10) business days after service of a Letter, a Respondent may file an Appeal to the Corporate Administrator in the simplified form set out in Annex 10.F (attached).
- b. If a Respondent files an Appeal, a member of the Special Regulatory Committee ("SRC") will be appointed to hear the Appeal, and an appeal hearing will be scheduled to commence within thirty (30) days.

- c. The Respondent and the Regulatory Division must file any documents for the hearing with the Corporate Administrator at least four (4) days prior to the date of the appeal hearing.
- d. A decision on the Appeal will be made by the SRC member, orally or in writing, within ten (10) business days of the date of the hearing. There are three possible outcomes:
  - i. The appeal is fully successful, and the matter is closed.
  - ii. The appeal is unsuccessful, and the imposed penalty stands.
  - iii. The appeal is partially successful, and it is determined that a different penalty is to be imposed. Note that the revised penalty may not be higher than was originally set out in the Letter.
- e. The appeal decision is final, and no further appeals are permitted.

### **General Information**

See the diagram on the next page, or the following document, for an overview of the IFCA disciplinary process, including Administrative Penalties:

[https://www.theice.com/publicdocs/futures\\_canada/Futures\\_Canada\\_Disciplinary\\_Processes.pdf](https://www.theice.com/publicdocs/futures_canada/Futures_Canada_Disciplinary_Processes.pdf)

Questions may be directed to the Regulatory Division at [compliance-canada@theice.com](mailto:compliance-canada@theice.com) and more information regarding the Regulatory Division can be found on the IFCA website:

[https://www.theice.com/publicdocs/futures\\_canada/Futures\\_Canada\\_Regulatory\\_Staff.pdf](https://www.theice.com/publicdocs/futures_canada/Futures_Canada_Regulatory_Staff.pdf)





