

Chapter 6

Penalties

6.6 Financial penalties for late and incomplete submission of reports

6.6.1

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- (1) The *FCA* attaches considerable importance to the timely submission by *firms* of reports. This is because the information that they contain is essential to the *FCA*'s assessment of whether a *firm* is complying with the requirements and standards of the *regulatory system* and to the *FCA* understanding of that *firm*'s business.
- (2) ■ DEPP 6.6.1 G to ■ DEPP 6.6.5 G set out the *FCA*'s policy in relation to financial penalties for late submission of reports and is in addition to the *FCA*'s policy relating to financial penalties as set out in ■ DEPP 6.5 to ■ DEPP 6.5D.

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In addition to the factors considered in Step 2 for cases against firms (■ DEPP 6.5A) and cases against individuals (■ DEPP 6.5B), the following considerations are relevant.

- (1) In general, the *FCA*'s approach to disciplinary action arising from the late submission of a report will depend upon the length of time after the due date that the report in question is submitted.
- (2) If the *person* concerned is an individual, it is open to him to make representations to the *FCA* as to why he should not be the subject of a financial penalty, or why a lower penalty should be imposed. If he does so, the matters to which the *FCA* will have regard will include the matters set out in ■ DEPP 6.5B. It should be noted that an administrative difficulty such as pressure of work does not, in itself, constitute a relevant circumstance for this purpose.
- (3) The *FCA* will have regard to repeated failures to submit reports on time. In the majority of cases involving such repeated failure, the *FCA* considers that it will be appropriate to seek more serious disciplinary sanctions or other enforcement action, including seeking to apply for the cancellation of the *firm*'s permission.
- (4) The *FCA* will also have regard to the submission frequency of the late report when assessing the seriousness of the contravention. For example, a short delay in submitting a weekly or monthly report can have serious implications for the supervision of the *firm* in question. Such a delay may therefore be subject to a higher penalty than might otherwise be the case.

[**Note:** For the purposes of ■ DEPP 6.6.2 G, “*firm*” has the special meaning given to it in ■ DEPP 6.5.1.]

- 6.6.3** **G** In addition, in appropriate cases, the *FCA* may bring disciplinary action against the individuals within the *firm's* management who are ultimately responsible for ensuring that the *firm's* reports are completed and returned to the *FCA*.
- 6.6.4** **G** In applying the *guidance* in this section, the *FCA* may treat a report which is materially incomplete or inaccurate as not received until it has been submitted in a form which is materially complete and accurate. For the purposes of the *guidance*, the *FCA* may also treat a report as not received where the method by which it is submitted to the *FCA* does not comply with the prescribed method of submission.
- 6.6.5** **G** In most late reporting cases, it will not be necessary for the *FCA* to appoint an investigator since the fact of the breach will be clear. It follows that the *FCA* will not usually send the *firm* concerned a preliminary findings letter for late-reporting disciplinary action.