Directors & officers
General Guidance Notes
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Overview

The Ministry of Financial Services advises that The Companies (Amendment) Law 2019 has commenced 08th August 2019 with the exception of S55A. This Law amends Section 55 and 56 of the Companies Law (2018 Revision) referred to as the principal Law. The section creates an obligation on a company to maintain a register of all the directors and officers of the company and to notify the Registrar of any changes in respect of the directors and officers.

This amendment law, which was passed in the Legislative Assembly on 8th August, requires companies to notify the Cayman Islands Registrar of Companies the first appointment of directors within 60 days and of changes in the information contained in the register of directors and officers, within 30 days of the change.

The amendment Law further requires the Registrar, under S55A, to make a list of the names of directors available for inspection by any person.

The principal Law prescribes a CI$500 maximum penalty per company for a breach of that obligation, and an aggregate penalty of CI$2,500 where the same breach occurs in respect of five or more companies.

Fee Implementation

In order to facilitate a smooth transition to the provisions under the Companies Amendment Law, 2019 the Registrar, under S199 of the Companies Law (2108 Revision), approved an extension to file changes in directors & officers to the 6th September 2019 without the assessment of penalties providing that the period elapsed between the change and the filing date has not exceeded 60 days.

Therefore if the period between the change and the filing (up to 6th September) of such change is greater than 30 days but less than or equal to 60 days no penalty will apply.

After the 6th September 2019 penalties will apply to all changes filed 30 days after such change.

These guidance notes should be used as instructions in the application and calculation of the penalties payable under section 56 of The Companies Law (2018 Revision).

Fee Calculations

The following should be noted when calculating penalties:

- **60 days** is allowed for the filing of the first appointment of director(s)
- **30 days** are allowed for the filing of all changes to directors (appointments & resignations)
- It does not matter how many directors or officers were changed on a particular date or within a **30 day period** so long as the Registrar is notified on the same date it is treated as one breach.
- Penalty for late filing is **$500**
- There are no per diem penalties
Calculating the Number of Days:
The following rules based on Section 8 Interpretation Law 1995 must be borne in mind when calculating the number of days:

- Where a penalty time period elapses on a Saturday, Sunday, public holiday or other days when the offices of the Registrar are closed for the full day the time period shall be treated as elapsing on the next following day when the offices of the Registrar are open.

- A period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day in which the event happens or the act or thing is done Therefore the date of appointment or resignation should not be included in the calculation.

Change Effective Date
The Registrar should be notified of appointments or changes only after the effective date.

- The effective date for CIMA regulated entities is the date of CIMA approval. The resolution date in this instance is not applicable

- The effective date which is dependent upon the occurrence of an event is the date of the event. The resolution date in this instance is not applicable however, in addition to submitting the resolution, documentation MUST be provided for verification of the occurrence of the event.

- The effective date for all other applications would be the date of the last required signature — Section 60(1)(b) Companies Law (2018 Revision)
WORKED EXAMPLES
The following worked examples may be used as guides to determining & computing penalties

FIRST APPOINTMENT - SINGLE BREACH

Example 1 – within 60 day period
- Any Company Ltd registered: 1st September 2019
- First appointment of director: 17th October 2019
- Register filed on 16 Dec 2019.

<table>
<thead>
<tr>
<th>Name</th>
<th>Director</th>
<th>Date of Appointment</th>
<th>How many days elapsed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Man</td>
<td>Director</td>
<td>17-Oct-19</td>
<td>60</td>
</tr>
</tbody>
</table>

Notes:
We ignore the registration date
NO PENALTIES – 18 October to 16 December 2019 is 60 days (just in time!)

Example 2 – filed after 60 day period
- Any Company Ltd registered: 1st September 2019
- First appointment of director: 17th Oct 2019
- Register filed on 20 Dec 2019.

<table>
<thead>
<tr>
<th>Name</th>
<th>Director</th>
<th>Date of Appointment</th>
<th>How many days elapsed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Man</td>
<td>Director</td>
<td>17-Oct-19</td>
<td>64</td>
</tr>
</tbody>
</table>

Notes:
We ignore the registration date
PENALTIES $500 (days elapsed >60)
Example 3 – 60 days elapsed on an exempted day

- Any Company Ltd registered: 1\(^{st}\) September 2019
- First appointment of director: 26th Oct 2019
- Register filed on 27 Dec 2019.

<table>
<thead>
<tr>
<th>Name</th>
<th>Director</th>
<th>Date of Appointment</th>
<th>How many days elapsed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Man</td>
<td>Director</td>
<td>26-Oct-19</td>
<td>64</td>
</tr>
</tbody>
</table>

**Penalties**
We ignore the registration date
60 days would elapse on 25\(^{th}\) December 2019 – that’s Christmas day and the office is closed.
The next business day is 27\(^{th}\) December 2019 – NO PENALTY

FIRST APPOINTMENT FILED WITH SUBSEQUENT CHANGES

- Any Company Ltd registered: 1\(^{st}\) September 2019
- First appointment of director: 26th Oct 2019
- Additional Appointment: 20 Nov 2019
- Register filed on 27 Dec 2019.

<table>
<thead>
<tr>
<th>Name</th>
<th>Director</th>
<th>Date of Appointment</th>
<th>How many days elapsed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Man</td>
<td>Director</td>
<td>26-Oct-19</td>
<td>64</td>
</tr>
<tr>
<td>Any Director</td>
<td>Executive</td>
<td>01-Nov-19</td>
<td>55</td>
</tr>
</tbody>
</table>

**Penalties**
We ignore the registration date
**First Appointment**
60 days would elapse on 25\(^{th}\) December 2019 – that’s Christmas day and the office is closed.
The next business day is 27\(^{th}\) December 2019 – NO PENALTY

Additional Appointment filed later than 30 days – **Penalty of $500**
**FIRST APPOINTMENT FILED WITH SAME DATE RESIGNATION**

- Any Company Ltd registered: 1st September 2019
- First appointment of director: 26th Oct 2019
- Resignation of director: 26th Oct 2019
- Register filed on 27 Dec 2019.

<table>
<thead>
<tr>
<th>Any Company Ltd</th>
<th>Example 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>ROC#115679</td>
<td></td>
</tr>
<tr>
<td>Register of Directors &amp; Officers</td>
<td>Filing date</td>
</tr>
<tr>
<td></td>
<td>27-Dec-19</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Director</th>
<th>Date of Appointment &amp; Resignation</th>
<th>How many days elapsed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Man</td>
<td>Director</td>
<td>26-Oct-19</td>
<td>64</td>
</tr>
</tbody>
</table>

**Penalties**

We ignore the registration date

**First Appointment**

60 days would elapse on 25th December 2019 – that’s Christmas day and the office is closed.
The next business day is 27th December 2019 – **NO PENALTY for appointment**

Resignation filed later than 30 days– **Penalty of $500**

**MULTIPLE BREACHES**

If a company breaches the requirement to notify the Registrar of a change in the register more than once, as long as

1. The breaches occur within a 30 day period and
2. The Registrar is notified of the changes on the same day,

the breaches will be penalized as one breach
**Example 1 – Multiple breaches all within a 30 day period**

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Date of Appointment</th>
<th>How many days elapsed?</th>
<th>How many days apart?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Man</td>
<td>Director</td>
<td>21-Sep-19</td>
<td>121</td>
<td>10</td>
</tr>
<tr>
<td>Minor Child</td>
<td>Chairman</td>
<td>28-Sep-19</td>
<td>114</td>
<td>3</td>
</tr>
<tr>
<td>Any Director</td>
<td>Director/Secretary</td>
<td>01-Oct-19</td>
<td>111</td>
<td></td>
</tr>
</tbody>
</table>

**How Calculated?**
- How many days Elapsed? filing date minus change date
- How many days apart? last change date minus each change date

**Penalties**
All appointments were within a 30 day period therefore they are penalized together

<table>
<thead>
<tr>
<th>TOTAL PENALTIES</th>
<th>$ 500</th>
</tr>
</thead>
</table>
### Example 2 – Multiple breaches: dates outside a 30 day period

<table>
<thead>
<tr>
<th>Name</th>
<th>Director</th>
<th>Date of Appointment</th>
<th>How many days elapsed?</th>
<th>How many days apart?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Man</td>
<td>Director</td>
<td>7-Sep-19</td>
<td>135</td>
<td>73</td>
</tr>
<tr>
<td>Minor Child</td>
<td>Chairman</td>
<td>21-Oct-19</td>
<td>102</td>
<td>29</td>
</tr>
<tr>
<td>Any Director</td>
<td>Director/Secretary</td>
<td>19-Nov-19</td>
<td>62</td>
<td></td>
</tr>
</tbody>
</table>

#### How Calculated?

- **How many days Elapsed?** filing date minus change date
- **How many days apart?** last change date minus each change date

#### Penalties

- The appointment of Any man is 73 days before the appointment of Any Director (not in a 30 days period therefore it is penalized on its own) $500
- Minor Child and Any Director were appointed within a 30 day period (29 days) therefore they are penalized together $500

**TOTAL PENALTIES** $1,000
Example 3: Multiple breaches within a 30 day period (filing includes date which is not in breach)

Any Company Ltd
ROC#115679
Register of Directors & Officers

Example - More than one change in D&O
Filing date: 17-Dec-19

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Date of Appointment</th>
<th>How many days elapsed?</th>
<th>How many days apart?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Man</td>
<td>Director</td>
<td>7-Sep-19</td>
<td>101</td>
<td>24</td>
</tr>
<tr>
<td>Minor Child</td>
<td>Chairman</td>
<td>01-Oct-19</td>
<td>77</td>
<td></td>
</tr>
<tr>
<td>Any Director</td>
<td>Director/Secretary</td>
<td>19-Nov-19</td>
<td>28</td>
<td></td>
</tr>
</tbody>
</table>

How Calculated?

- How many days Elapsed? filing date minus change date
- How many days apart? last change date minus each change date

Penalties

Any Man and Minor Child were appointed within a 30 day period (24 days) therefore they are penalized together

TOTAL PENALTIES $500
Example 4: Multiple breaches – date outside 30 days period and include date which is not in breach

<table>
<thead>
<tr>
<th>Name</th>
<th>Director</th>
<th>Date of Appointment</th>
<th>How many days elapsed?</th>
<th>How many days apart?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Man</td>
<td>Director</td>
<td>7-Sep-19</td>
<td>101</td>
<td>33</td>
</tr>
<tr>
<td>Minor Child</td>
<td>Chairman</td>
<td>10-Oct-19</td>
<td>68</td>
<td></td>
</tr>
<tr>
<td>Any Director</td>
<td>Director/Secretary</td>
<td>19-Nov-19</td>
<td>28</td>
<td></td>
</tr>
</tbody>
</table>

**How Calculated?**
- How many days elapsed? filing date minus change date
- how many days apart? last change date minus each change date

**Penalties**
The appointment of Any man is 33 days before the appointment of Minor Child (not in a 30 days period) therefore they are penalized separately

<table>
<thead>
<tr>
<th></th>
<th>Any Man</th>
<th>Minor Child</th>
<th>TOTAL PENALTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any Man</td>
<td>$500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minor Child</td>
<td>$500</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL PENALTIES</strong></td>
<td><strong>$1,000</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**CHANGE AFFECTING MULTIPLE COMPANIES**
Where breaches of Section 55 occur in respect of more than 5 companies, the applicable aggregate penalty shall not exceed $2,500 which shall be borne equally by the offending companies

Clients will be given 24 hours to upload all applications affected by the change

Upon filing the register that contains late entries the client will be asked to upload a listing of all the companies (more than 5) that are affected by the change in director/officer stating:

- ROC #
- Name of Company
- Name of Director/Officer

Template – Appendix A
We will process only after all registers are filed.
The $2,500 will be divided by the total number of companies affected AND APPLIED EQUALLY
A penalty letter will be prepared for each company
CORRECTIONS

The Registry does not take responsibility for the contents of the registers. The data is accepted as valid. The review process is geared at assessing penalties. If an error is identified subsequent to approval a request should be sent to CIGENREG@gov.ky to arrange for correction.

The Registry will deal with the various scenarios as stated below:

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Procedure</th>
<th>Cost of correction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The directors and officers were manually filed by the client but ROC did not update CORIS. The client does not have an outstanding filing to make.</td>
<td>ROC to do the update based on register filed.</td>
</tr>
<tr>
<td>2</td>
<td>The directors and officers were manually filed by the client but ROC did not update CORIS. The client has an outstanding filing to make.</td>
<td>Client to submit the updated register with all the entries previously filed plus the outstanding filings. Client to upload stamped register ROC will review against what was previously filed ROC (Asst. Registrar) to adjust notification date of previously filed entries to agree with original ROC stamp date. Penalties will only apply to filings that were not previously made to ROC Approve</td>
</tr>
<tr>
<td>3</td>
<td>The directors and officers were manually filed by the client ROC updated CORIS incorrectly Client has no outstanding filings</td>
<td>ROC to make corrections based on register filed</td>
</tr>
<tr>
<td>4</td>
<td>The directors and officers were manually filed by the client but ROC updated CORIS incorrectly Client has outstanding filings</td>
<td>ROC to make all corrections prior to the client’s submission of the outstanding filings.</td>
</tr>
<tr>
<td>Scenario</td>
<td>Procedure</td>
<td>Cost of correction</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>--------------------</td>
</tr>
</tbody>
</table>
| If the matter is time sensitive  
The client may make the filing of the changes and include in the comment all the corrections that should be made.  
ROC will perform the corrections in CORIS  
Then assess and approve new filing in EDMS |                                                                                     |                    |
| 5  The client filed the register with errors – incorrect spelling, address | Client to update names and or addresses  
Client to upload letter in EDMS explaining the change being made and why. | $75                |
| 6  The client filed the register with errors – incorrect office held, appointment or resignation date | Client to provide a copy of the resolution or a letter on their letterhead explaining the error.  
ROC assess for penalties  
ROC upload the letter in EDMS  
ROC update CORIS | $75                |
| 7  The client filed an appointment in error –  
  • the director was never appointed | Client to submit a copy of the resolution that was passed on the date specified showing that the director was never included in the appointments.  
ROC make the correction | $75                |
| 8  The client filed an appointment in error –  
  • The director never accepted the appointment | Client to provide a letter from the named director stating that the appointment was never accepted. | $75                |
| 9  The client makes a filing prior to the effective appointment date: | Client to provide copy of the resolution, CIMA or Cabinet approval letter  
ROC change notification date to date of current correspondence. | $75                |
SPECIAL CONSIDERATIONS

➤ DEATH OF A DIRECTOR OR OFFICER

Upon the death of a director or officer a discretionary extension for filing will be allowed of six (6) months from the date of death. A death certificate must be submitted with the filing. If the certificate cannot be produced then the penalties will apply.

After the six months has elapsed regular penalties will apply.
Dear Sirs:

Re: Late filing of Directors and Officers
Application of penalties pursuant to 556(2)(b)

We acknowledge that the appointment/resignation of ANY DIRECTOR was not filed with the Registrar within sixty days. He is a director of the following companies:

<table>
<thead>
<tr>
<th>ROC#</th>
<th>Name</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Happy Ltd</td>
<td>357.14</td>
</tr>
<tr>
<td>2</td>
<td>Lonely Limited</td>
<td>357.14</td>
</tr>
<tr>
<td>3</td>
<td>Patient Inc.</td>
<td>357.14</td>
</tr>
<tr>
<td>4</td>
<td>Success Sure Ltd</td>
<td>357.14</td>
</tr>
<tr>
<td>5</td>
<td>Crazy Ventures Ltd</td>
<td>357.14</td>
</tr>
<tr>
<td>6</td>
<td>Wishing Ltd</td>
<td>357.14</td>
</tr>
<tr>
<td>7</td>
<td>Just Because Ltd</td>
<td>357.16</td>
</tr>
<tr>
<td></td>
<td>TOTAL PENALTIES</td>
<td>2,500.00</td>
</tr>
</tbody>
</table>

Please apply the penalties in accordance with 556(2)(b). We confirm that the registers have been filed for all companies in the list reflecting the appointment/resignation of ANY DIRECTOR.

We further accept that other companies, not included in this list, that are affected by this appointment/resignation, will be assessed on their own and will not obtain the benefits of the reduced penalties.

Sincerely,

Client’s signatory
NAME
For and on behalf of CLIENT