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<b>BULLETIN NUMBER:</b>	<b>FI-17-001</b> (Replaces FI-14-001 issued January 2014)
<b>TITLE:</b>	<b>INFORMATION REQUIRED OF DIRECTORS, SENIOR OFFICERS, SUBSCRIBERS, AND SHAREHOLDERS</b>
<b>LEGISLATION:</b>	<b>FINANCIAL INSTITUTIONS ACT (FIA) CREDIT UNION INCORPORATION ACT (CUIA)</b>
<b>DATE:</b>	<b>MARCH 2017</b>
<b>DISTRIBUTION:</b>	<b>Board Chairs, CEOs and General Managers, British Columbia Provincially Regulated Financial Institutions</b>

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## **PURPOSE**

This bulletin sets out the Financial Institutions Commission's (FICOM) requirements for directors, senior officers, subscribers and shareholders (DSOs) controlling ten or more per cent of the voting shares of provincially regulated financial institutions (PRFIs).

## **BACKGROUND INFORMATION**

Sections 13(2)(e), 22(2)(c) and 105 of the FIA, and section 11(3)(e) and 15.1(5)(a)(iii) of the CUIA, require DSOs, or proposed DSOs, of a PRFI to complete and submit a personal information return (PIR) before commencing duties.

## **DEFINITIONS<sup>1</sup>**

An officer includes a credit officer, an employee of the corporation who has authority to approve loans and an employee of a corporation who reports directly to the directors.

An officer of a PRFI will qualify as a senior officer on meeting any of the following criteria:

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<sup>1</sup> As defined in section 1 of the *Financial Institutions Act* and the *Definitions Regulation*.

The individual is one of the five highest paid officers and includes an individual whether or not among those five highest paid officers who:

- (i) is either the Chair, or a Vice Chair of the board of directors, the president, a vice president, the secretary, the treasurer, the general manager of the corporation; or
- (ii) performs functions of the PRFI similar to those normally performed by the named individuals in (i) above.

## REQUIREMENTS

A financial institution should conduct its own assessment for suitability prior to the person submitting their PIR to FICOM. In order for FICOM to be able to assess a DSO's suitability for office, the following PIR documents must be submitted:

1. PIR;
2. Resume;
3. Bankruptcy and insolvency check; and
4. Criminal record check.

Documents 1, 2 and 3 must be submitted before a DSO commences duties<sup>2</sup>; otherwise the person may be subject to an administrative penalty. Document 4 can be submitted at a later date under the circumstances set out below.

### PIR

The PIR for DSOs can be found on the FICOM website:

[http://www.fic.gov.bc.ca/pdf/FicomForms/FinancialInstitutionsDivision\\_PIR.pdf](http://www.fic.gov.bc.ca/pdf/FicomForms/FinancialInstitutionsDivision_PIR.pdf)

The DSO is responsible for submitting the PIR and supporting documents.

Please note that the PIR is to be filed with FICOM for directors, senior officers, subscribers, and any controlling shareholders **prior to taking office, commencing duties, or acquiring ownership as applicable.**

We only accept PIRs for elected or appointed directors. The exception to this rule occurs when the director election takes place at the Annual General Meeting (AGM) and elected directors commence duties immediately after the AGM ends. In this case, FICOM will accept PIRs in advance for nominated directors so that those directors who are elected will comply with FIA section 105 requirements.

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<sup>2</sup> Under section 105 of the *Financial Institutions Act*, before commencing duties, a director or senior officer of a financial institution must complete and submit to the superintendent a personal information return in the form established by the commission that discloses the information required by the commission.

Following a review of the PIR, FICOM will advise the PRFI of any adverse findings; otherwise, there will be no further acknowledgement from FICOM. Once the election results are known, PRFIs are required to advise FICOM immediately of the names of the newly elected director(s) as required under section 99(4) of the FIA.

Submission of the PIR form is subject to the [Non-Compliant Filings Administrative Penalty Guideline](#). It is the responsibility of the DSO to be fully aware of its regulatory obligations, including its filing requirements, and to comply with them.

FICOM reminds credit unions that a Notice of Directors (Form 2) must be filed with the Registrar of Companies whenever there are changes to the Board. Please send FICOM a copy for its records. This form is available at BC Registry Services.

### Resume

A resume or curriculum vitae that includes education and employment history up to the date of submission must be provided.

### Bankruptcy and Insolvency Check

DSOs must disclose whether they have ever been subject to bankruptcy proceedings, and if so, they need to explain whether they have been discharged and attach proof of discharge. DSOs who are discharged bankrupts must provide a copy of the assignment in bankruptcy and a list of all creditors.

Please note that bankruptcy proceedings, including consumer proposals under the *Bankruptcy and Insolvency Act*, must be reported on the PIR Section C item 6.

A bankruptcy and insolvency check can be obtained from the [Office of the Superintendent of Bankruptcy Canada](#).

### Criminal Record Check

DSOs must provide FICOM staff with a current and original Certified Criminal Record Check (CCRC), which is dated **no more than three months** prior to the date of submission.

A DSO must obtain a CCRC based on his or her date of birth from their local police station or a third party service provider. Third party service providers<sup>3</sup> include:

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<sup>3</sup> The list of third party service providers has been provided for your convenience. FICOM does not endorse the products and services of these companies.

- Canadian Corps of Commissionaires;
- L-1 Identity Solutions;
- Express Pardons;
- BackCheck; and
- International Fingerprinting Services.

DSOs must complete a “Third Party Waiver of Consent” form which authorizes the police authority to send the CCRC directly to FICOM, or the individual must forward his or her original CCRC to FICOM. In circumstances where a CCRC based on the name and date of birth of the DSO shows a significant criminal record or FICOM has concerns over the identity of the individual, the DSO may be required to obtain a CCRC based on the applicant’s fingerprints.

The DSO must disclose whether he or she has been charged or convicted without pardon of any criminal offence or offences, under any law of any province, state or country. If the DSO does have a criminal record or pending criminal charges, he or she must provide a detailed explanation of them, including the circumstance under which the charges were laid, the specific offences, whether they resulted in convictions, relevant dates, and a description of the disposition of the charges and any penalty imposed.

The existence of a criminal record or outstanding criminal charges will not necessarily preclude the DSO from the office. In determining whether a criminal record or an outstanding criminal record will make a DSO unsuitable for their positions, FICOM will take into consideration:

- The seriousness and number of offences;
- The nature of the offence or offences, and whether they relate to acts of dishonesty or deception, or demonstrate a risk of potential harm to the public;
- The length of time which has elapsed since the date of the offence or offences;
- Any efforts the applicant has made to rehabilitate himself or herself; and
- The sentence imposed by a court, and whether the sentence has been completed successfully.

There are circumstances where a criminal records check may not arrive by the start period of the DSO’s position or share acquisition. When filing their PIR, a DSO may request the ability to act or acquire prior shareholdings prior to receipt of a criminal records check by setting out the reasons for permitting the late filing of the criminal records check.

#### Regulatory Issues with Professional Organizations or Self-Regulatory Bodies

DSOs must disclose whether they have ever been refused a license or registration or been disciplined by a regulatory body in any capacity, including being advised by a regulatory body that if they reapply for a license or registration, they would be subject to a suitability review.

### Failure to Disclose

FICOM expects that each DSO will complete the PIR with truthful and complete information. FICOM considers it a serious matter for any DSO to provide false information by either making false statements or failing to provide complete and truthful statements. Providing false or incomplete information to FICOM may affect an individual's suitability to be a DSO of a PRFI. DSOs are advised to read the PIR carefully, and to contact FICOM if they are uncertain about how to provide a clear response to a question or issue.

### Updated PIR

Please note that a DSO is required to submit an updated PIR when there are changes to the information in the PIR, criminal record check, or bankruptcy and insolvency check. A DSO should specify what information on the form has been updated.

## **COLLECTION, USE, DISCLOSURE AND RETENTION POLICY**

The information requested on the PIR is collected under the authority of, and used for the purpose of, administering the FIA and the CUIA, as applicable.

FICOM retains information of current DSOs for seven years after they leave their positions. FICOM's retention policy is consistent with the requirements in the *Document Disposal Act*.

## **OTHER INFORMATION**

If there are any questions about this bulletin, please refer to [PIR - Frequently Asked Questions](#), or contact Financial & Regulatory Reporting at [filings@ficombc.ca](mailto:filings@ficombc.ca).

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