

Procedures on Constructive Notice under the Enforcement Policy and Procedures

Pursuant to Section 15.2 (iv) of the Enforcement Policies and Procedures (the “EPPs”), the Enforcement Commissioner will apply the following procedures in determining the date on which constructive notice of receipt of a Notice of Prohibited Practice, a Notice of Third Party Finding and/or of a Suspension Decision (as applicable, each, a “Notice”) is established.

1. If a Notice from the Enforcement Commissioner, sent by registered mail or equivalent system to an address determined in accordance with Section 15.1 (ii) of the EPPs (the “Original Address”), is returned to the Enforcement Commissioner without having been delivered and without addressee of such Notice (the “Addressee”) having refused delivery of the Notice, the address of the Addressee will be considered unknown or fictitious for the purposes of Section 15.2 (iv) of the EPPs.
2. Thereafter, the Enforcement Commissioner will send a further letter (the “Follow-up Letter”) addressed to the Addressee at the Original Address and marked confidential.
3. The Follow-up Letter will inform the Addressee that:-
 - a. the Enforcement Commissioner has attempted to deliver a Notice to the Addressee but has not succeeded in doing so;
 - b. that the Addressee may obtain such Notice by contacting the Enforcement Commissioner by mail, telephone, e-mail or fax;
 - c. the Enforcement Commissioner has published a public notice on the Bank’s website, indicating that the Enforcement Commissioner is attempting to locate the Addressee in order to deliver a Notice to the Addressee;
 - d. the Addressee will be deemed to have constructive notice of the contents of such Notice, on the day which is 45 days after the date on which the public notice was posted on the Bank’s website, unless actual delivery of such Notice to the Addressee is accomplished or deemed receipt of such Notice, pursuant to Section 15.2 (iii) of the EPPs, occurs before that date; and
 - e. the public notice will remain on the Bank’s website until the earliest to occur of actual delivery, deemed receipt or constructive notice.
4. The Follow-up Letter may be sent by any of the means of mail used by the Bank in its usual course of business (including, without limitation, ordinary mail, Special Delivery mail or International Signed-For mail) or by courier.
5. In addition to sending the Follow-Up Letter, the Enforcement Commissioner will publish on the Bank’s website a public notice indicating that the Enforcement Commissioner is attempting to locate the Addressee in order to deliver a Notice to the Addressee.

6. If there is no known address for a Subject, the Enforcement Commissioner will publish on the Bank's website a public notice that the Enforcement Commissioner is attempting to locate the Subject, in order to deliver a Notice to the Subject.
7. A public notice published under 5 or 6 above will remain on the Bank's website for 45 days after the date on which the public notice was posted on the Bank's website or until the earliest to occur of actual delivery, deemed receipt or constructive delivery.
8. An Addressee or a Subject (as applicable) will be deemed to have constructive notice of the contents of a Notice published under 5 or 6 above on the last day of the 45 day period referred to in 7 above, unless actual delivery of such Notice is accomplished or deemed receipt of such Notice occurs before that date.

November 2016