

## New York City Conflicts of Interest Board

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rules Regarding Procedures for the Enforcement of Penalties Against Late Filers of Annual Disclosure Reports**

**What are we proposing?** The Conflicts of Interest Board is proposing to adopt rules for the procedures for setting and enforcing fines against late filers.

**When and where is the Hearing?** The Conflicts of Interest Board will hold a public hearing on the proposed rule. The public hearing will take place at 10:30 a.m. on Thursday, May 25, 2023. The hearing will be at Spector Hall, 22 Reade Street, New York, New York 10007.

This location has the following accessibility option(s) available: wheelchair accessible

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Conflicts of Interest Board through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [Rules@COIB.nyc.gov](mailto:Rules@COIB.nyc.gov).
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing may speak for up to three minutes. It is recommended, but not required, that commenters sign up prior to the hearing by contacting the Conflicts of Interest Board by telephone at (212) 437-0730 or by email at [kmiller@coib.nyc.gov](mailto:kmill@coib.nyc.gov). You can also sign up in the hearing room before the hearing begins on Thursday, May 25, 2023.

**Is there a deadline to submit comments?** Yes, you must submit written comments by Thursday, May 25, 2023.

**Do you need assistance to participate in the hearing?** You must tell the Conflicts of Interest Board if you need a reasonable accommodation of a disability at the hearing, including if you need a sign language interpreter. You can advise us by telephone at (212) 437-0730 or by email at [kmiller@coib.nyc.gov](mailto:kmill@coib.nyc.gov). You must tell us by Monday, May 22, 2023.

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. Copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public on the Conflicts of Interest Board's website

<https://www1.nyc.gov/site/coib/public-documents/open-meetings-and-public-hearings.page>) as soon as practicable.

**What authorizes the Conflicts of Interest Board to make this rule?** Sections 1043 and 2603 of the City Charter authorize the Conflicts of Interest Board to make this proposed rule. These rules were included in the Conflicts of Interest Board’s regulatory agenda for this Fiscal Year.

**Where can I find the Conflicts of Interest Board’s rules?** The Conflicts of Interest Board’s rules are in Title 53 of the Rules of the City of New York.

**What rules govern the rulemaking process?** The Conflicts of Interest Board must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

### **STATEMENT OF BASIS AND PURPOSE**

New York City’s Annual Disclosure Law, found in New York City Administrative Code (“Admin. Code”) § 12-110, requires certain individuals to file an annual disclosure report with the New York City Conflicts of Interest Board (the “Board”) by a date set by the Board. Admin. Code § 12-110(g)(1) provides for penalties, specifically a fine, against required filers who submit their reports more than 7 calendar days after that date. Section 12-110(g)(1) sets a range for the fine (not less than \$250 and not more than \$10,000) and states that the factors to be considered by the Board in determining the fine include, but are not limited to: whether the filer submitted their report late in prior years and the length of the delay in filing. Proposed Board Rules § 4-07 would provide notice and clarity regarding the amount of the fines imposed on late filers and the process by which the Board enforces that fine.

Specifically, the proposed rule sets forth a fine schedule that takes into account the filer’s history of late filing and how late the report at issue was submitted. The proposed rule also sets forth the procedures for the enforcement of the fine, ensuring that

late filers are provided notice and an opportunity to challenge the assessment of a fine before the Board issues a public order imposing a fine.

### **Text of Proposed Board Rules**

New material is underlined.

Section 1. Chapter 4 of Title 53 of the Rules of the City of New York is amended by adding a new section 4-07 to read as follows:

#### **§ 4-07 Procedures for the Enforcement of Penalties Against Late Filers**

(a) *Applicability.*

Pursuant to paragraph (1) of subdivision (g) of section 12-110 of the administrative code, this section sets forth the procedures for setting and enforcing fines against late filers who are not subject to the jurisdiction of any state law or collective bargaining agreement that provides for the conduct of disciplinary proceedings.

(b) *Definition.*

The term “late filer” means a person who was required to submit an annual disclosure report pursuant to subdivision (b) of section 12-110 of the administrative code and submitted their report to the Board more than 7 calendar days after the filing deadline set by the Board.

(c) *Fine schedule.*

All late filers will be required to pay a fine of \$250, plus:

(1) An additional \$250 for every 30 calendar days after the filing deadline that the filer submitted their report.

(2) An additional \$250 if the filer was a late filer in any of the previous 6 years.

(d) *Commencement of an enforcement action.*

An enforcement action will be commenced by sending a written Late Filer Notice to the filer's last known email address. The Late Filer Notice will state:

- (1) the filing deadline set by the Board;
- (2) the date the filer submitted their report;
- (3) the amount of the fine, as determined by the fine schedule in this section;
- (4) the filer's right to be represented by an attorney or other person; and
- (5) that the filer has 30 calendar days from the date of the Late Filer Notice to either pay the fine or submit a response for consideration by the Board.

(e) *Representation by an attorney or other person.*

If a filer chooses to be represented by an attorney or any other person, the filer's representative must submit a written and signed Notice of Appearance to the Board. The appearance of a member in good standing of the bar of a court of general jurisdiction of any state or territory of the United States will be indicated by the designation "Attorney for (person represented)." The appearance of any other person will be indicated by the designation "Representative for (person represented)." The Board will not accept a response from or discuss the details of a notice or action under this section with a person who has not submitted a Notice of Appearance.

(f) *Response.*

A late filer has 30 calendar days from the date of the Late Filer Notice to pay the fine or submit a written response for consideration by the Board. The response is an opportunity for the late filer to provide an explanation of why they submitted the

report late that they believe justifies a reduction of the fine or dismissal of the enforcement action. The response should include any supporting documentation.

(g) Board order or dismissal.

- (1) The Board will review the Late Filer Notice, any written response submitted by the late filer, and other relevant information to determine whether a violation has occurred and, if so, the appropriate fine. The Board may, with good cause shown, forgive some of the fine, provided that imposition of a partially forgiven fine will not result in a fine of less than \$250.
- (2) If the Board determines that a violation has occurred, the Board will issue an order stating its final findings and imposing a fine. Such order will be made public, but all underlying records, reports, memoranda, and files will remain confidential in accordance with subdivision (k) of section 2603 of the charter, except that annual disclosure reports and the dates they are filed will be available for public inspection pursuant to subdivision (e) of section 12-110 of the administrative code.
- (3) The order will be sent by first class mail to the late filer's last known residential address or actual place of business and to the late filer's representative, if applicable.
- (4) If the order imposes a fine, payment is due to the Board within 30 calendar days of the date of service. If the late filer does not pay the full amount within 30 calendar days, the Board will pursue all remedies, which may include garnishment of City wages or referral to the New York City Law Department for collection.

(5) If the Board determines that the action should be dismissed, the Board will issue a written decision that dismisses the action. The decision will be sent to the filer and the filer's representative, if applicable, and will not be made public. All underlying records, reports, memoranda, and files will remain confidential in accordance with subdivision (k) of section 2603 of the charter, except that annual disclosure reports and the dates they are filed will be available for public inspection pursuant to subdivision (e) of section 12-110 of the administrative code.

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Amendment of Rules for Enforcement of Financial Disclosure Filing Requirement

**REFERENCE NUMBER:** 2023 RG 008

**RULEMAKING AGENCY:** Conflicts of Interest Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Senior Counsel

Date: April 5, 2023

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Rules for Enforcement of Financial Disclosure Filing Requirement**

**REFERENCE NUMBER: COIB-26**

**RULEMAKING AGENCY: Conflicts of Interest Board**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro  
Mayor's Office of Operations

April 5, 2023  
Date