

28 January 2022

Cepi continues to recommend FSC certificate holders to assess risks connected to the acceptance of new Trademark License Agreement

FSC has published a revised version of the advice note addressing deliberate false claims since its last General Assembly at the end of October 2021. This was done following strong criticism by certificate holders and certification bodies about the first version of the advice note, which led to the creation of a chain of custody forum to address the criticism.

Cepi believes, however, that the revised advice note does not adequately address the main 'concern of certificate holders; while it aims at addressing deliberate false claims, the concept of negligent (and other) false claims is still framed in a way that they ultimately lead to sanctions in the magnitude of deliberate false claims. CEPI Fully supports FSC request to introduce stronger sanctions for those found to be guilty of deliberate fraud associated with the failure to prevent the inclusion of uncontrolled material into FSC certified articles, but we believe negligence is covered by the non-conformance requirements in the existing standard(s). Due to the uncertainty this Advice note raises in identifying where the current standards end and the advice note begins -this is perceived as a significant business risk.

Cepi therefore believes it is important to continue the revision process and has, along with various members and industry representatives, expressed this position to the FSC. Cepi also believes that following initial informal discussions, the Chain of Custody Forum, which was created explicitly to address such issues, should be the forum for this continued revision.

Meanwhile, Cepi would like to inform its members about an important correlation with the Trademark License Agreement (TLA). While the FSC has accepted to pause the roll-out of the TLA during the revision, it has announced that the new TLAs will be sent to single site certificate holders as of 20 January.

Cepi therefore continues to recommend FSC certificate holders to assess the risks associated with the new TLA before signing the new TLA.

Annex: extract new TLA, copy of FSC-PRO 10-003 on calculating financial penalty/compensation fee and processing evidence for blocked organisations

14. False Claims and Consequences

14 1 In the event that an investigation conducted by FSC GD and/or ASI reveals that (i) Licensee deliberately made a False Claim or (ii) Licensee negligently made more than two (2) False Claims within a five (5) year period, Licensee shall pay a financial penalty in accordance with Section 15

14 2 Furthermore, in the event that an investigation conducted by FSC GD and/or ASI reveals that (i) Licensee deliberately made a False Claim or (ii) Licensee negligently made more than two (2) False Claims within a five (5) year period, FSC GD can

14 2 1 suspend the Granted Rights held by Licensee according to Sections 13 1 to 13 4 of this Agreement or terminate this Agreement with

immediate effect pursuant to Section 17 6, whatever is most appropriate and suitable;

14 2 2 block Licensee from the FSC Certification Scheme and make Licensee a Blocked Organization in accordance with Section 16,

14 2 3 inform the responsible Certification Body about the results of the investigation as well as on the sanctions imposed on the Licensee in accordance with this Section

15. Financial Penalty for False Claims

15 1 The purpose of the financial penalty is to protect the trust in the integrity of the FSC Certification Scheme, to protect the complying Licensees as well as the high reputation and credibility which the FSC Certification Scheme enjoys worldwide. The financial penalty shall further protect producers and consumers against any misleading by False Claims. The financial penalty also covers the cost incurred by FSC and/or ASI to investigate the false claims that leads to the payment of the financial penalty

15 2 The financial penalty including the applicable calculation method and amount of the financial penalty are specified in FSC-PRO-10-003 that can be found in **Annex 5**

14. Falsche Kennzeichnung und Auswirkungen

14 1 Sollte eine von der FSC GD und/oder der ASI durchgeführte Untersuchung ergeben, dass (i) der Lizenznehmer absichtlich eine Falsche Kennzeichnung gemacht hat oder (ii) der Lizenznehmer fahrlässig mehr als zwei (2) Falsche Kennzeichnungen innerhalb eines Zeitraums von fünf (5) Jahren gemacht hat, muss der Lizenznehmer die Vertragsstrafe wie in Ziffer 15 festgelegt, entrichten

14 2 Darüber hinaus kann die FSC GD, falls eine von der FSC GD und/oder ASI durchgeführte Untersuchung ergibt, dass (i) der Lizenznehmer absichtlich eine Falsche Kennzeichnung ausgestellt hat oder (ii) der Lizenznehmer fahrlässig mehr als zwei (2) Falsche Kennzeichnungen innerhalb eines Zeitraums von fünf (5) Jahren gemacht hat

14 2.1 die Eingeraumten Rechte des Lizenznehmers gemäß den Ziffern 13 1 bis 13 4 dieser Vereinbarung aussetzen oder diese Vereinbarung mit sofortiger Wirkung gemäß Ziffer

17 6 kündigen, je nachdem, welche von der Maßnahmen sich als die geeignetste und angemessenste darstellt;

14 2 2 den Lizenznehmer aus dem FSC-Zertifizierungssystem sperren und den Lizenznehmer zu einer Gesperrten Organisation in Übereinstimmung mit Ziffer 16 erklären;

14 2 3 die zuständige Zertifizierungsstelle über die Ergebnisse der Untersuchung sowie über die gegen den Lizenznehmer verhängten Sanktionen gemäß dieser Ziffer informieren

15. Vertragsstrafe bei Falscher Kennzeichnung

15 1 Der Zweck der Vertragsstrafe ist es, das Vertrauen in die Integrität des FSC-Zertifizierungssystems und die Lizenznehmer, die sich an die Bestimmungen halten, zu schützen, sowie das hohe Ansehen und die Glaubwürdigkeit aufrechtzuerhalten, welche das FSC-Zertifizierungssystem weltweit genießt. Die Vertragsstrafe soll zudem Produzenten und Verbraucher vor einer Irreführung durch Falsche Kennzeichnung schützen. Die Vertragsstrafe deckt auch die Kosten ab, die der FSC und / oder ASI entstehen, um die Falsche Kennzeichnung zu untersuchen, die zur Zahlung der Vertragsstrafe führt

15 2 Die Vertragsstrafe einschließlich der anwendbaren Berechnungsmethode und Höhe der Vertragsstrafe sind in FSC-PRO-10-003, welches als **Anhang 5** beigefügt ist, festgelegt

15.3 The calculation method shall ensure that the specific applicable financial penalty payable by the Licensee to FSC GD is appropriate, in particular proportional to the nature, weight, gravity and duration of the specific false claim in question, including its impact on the integrity and the reputation of the FSC Certification Scheme

15.4 The assertion of a claim for damages because of a False Claim exceeding the contractual penalty remains unaffected. However, the contractual penalty shall be set off against such a claim for damages

15.3 Die Berechnungsmethode soll sicherstellen, dass die konkret anwendbare Vertragsstrafe, welche der Lizenznehmer an FSC GD zu zahlen hat, angemessen ist, insbesondere im Verhältnis zur Art, zum Gewicht, zur Schwere und zur Dauer der konkreten Falschen Kennzeichnung, einschließlich ihrer Auswirkungen auf die Integrität und den Ruf des FSC-Zertifizierungssystems

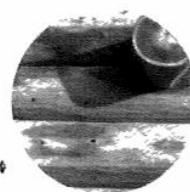
15.4 Die Geltendmachung von Schadensersatzansprüchen wegen einer über die Vertragsstrafe hinausgehenden Falschen Kennzeichnung bleibt unberührt. Die Vertragsstrafe sollte jedoch mit einem solchen Schadensersatzanspruch verrechnet werden

Annex 5: FSC-PRO-10-003 Calculating financial penalty/compensation fee and processing evidence for blocked organizations

Anhang 5: FSC-PRO-10-003 Berechnung der Vertragsstrafe/Entschädigungsentgelts und Verarbeitung von Beweismitteln für gesperrte Organisationen



Forest Stewardship Council®






**Calculating financial penalty/
compensation fee and processing
evidence for blocked organizations**

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FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED ORGANIZATIONS

2020

Content

- A Objective
 - B Scope
 - C Effective and validity dates
 - D References
 - E Terms and definitions
-
- 1 Impact of false claims
 - 2. Applicable criteria
 - 3. Calculation of the financial penalty/compensation fee
 - 4 Legal successors of the financial penalty/compensation fee
 - 5. Duration of blocked status
 - 6 Contesting a blocked status and financial penalty/compensation fee
-
- Annex 1 FSC Template for submitting evidence to contest blocked status

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED ORGANIZATIONS

2020

A Objective

The objective of this document is to provide the procedures for the calculation of the financial penalty/compensation fee and the process for blocked organizations to contest their blocked status in response to false claims

This procedure is not subject to the rules and regulations outlined in FSC-PRO-01- 001.

B Scope

This procedure shall be applied by FSC, FSC-accredited certification bodies and blocked organizations. All aspects of this document are normative, including the scope, standard effective date, references, terms and definitions, tables, notes and annexes, unless otherwise stated

C Effective date

Approval date	10 March 2020
Publication date	13 March 2020
Effective date	6 April 2020
Period of validity	until replaced or withdrawn

D References

The following referenced documents are indispensable for the application of this document. For undated references, the latest edition of the referenced document (including any amendments) applies.

FSC-STD-20-001 General requirements for FSC accredited Certification bodies

FSC-STD-20-007 Forest management evaluations

FSC-STD-20-011 Chain of Custody Evaluations

FSC-STD-20-012 Standard for evaluation of FSC Controlled Wood in Forest Management Enterprises

FSC-STD-40-003 Chain of Custody Certification of Multiple Sites

FSC-STD-40-004 Chain of Custody Certification

FSC-STD-01-002 FSC Glossary of Terms

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED ORGANIZATIONS

2020

E Terms and definitions

The terms and definitions given in FSC-STD-01-002 FSC Glossary of Terms, FSC-STD-01-001 FSC Principles and Criteria for Forest Stewardship and FSC-STD-40-004 Chain of Custody Certification, and the following apply

Annual turnover: Total revenue of an organization derived from the provision of goods and services, less trade discounts, VAT, and any other taxes based on this revenue (Dictionary of Business, Oxford University Press, 1996). In the context of the coefficient of capacity, turnover refers to all certified and uncertified forest products (e.g. sawn timber, particle boards, paper, non-timber forest products) and products containing wood or fiber components. It does not refer to other 100% non-forest products companies might produce. The annual turnover refers to the most recently completed fiscal year.

Blocked organization: A certificate holder or a former certificate holder that is blocked from the FSC Certification Scheme in response to false claims by:

- (1) the suspension of the Granted Rights, alternatively the termination of the License Agreement for the FSC Certification Scheme, and
- (2) the restriction from carrying out processes or activities that are included within the scope of their FSC certification.

Clear and convincing evidence: Evidence available to the certification body, ASI and/or FSC that supports a conclusion that a fact is substantially more probable to be true than not. In other words, there must be a firm conviction or belief that the organization deliberately made false claims. Clear and convincing evidence shall be supported by documents, facts, other information or records, either quantitative or qualitative, that can be verified through analysis, observation, measurement, and other means of research.

Compensation fee: a monetary sanction voluntarily paid by a certificate holder or former certificate holder in order to remedy a false claim.

Deliberate: with knowledge and awareness of the consequences.

False claim: FSC claim made on sales documents (physical or electronic) or the use of the FSC trademarks, on products and for projects that are not eligible to be claimed, labelled and/or promoted as being FSC-certified or FSC Controlled Wood. A false claim is different from an inaccurate claim, in which a product, that is eligible to be sold as FSC certified, is sold with the wrong claim.

Financial penalty: a monetary sanction that is contractually and mutually agreed in the FSC Trademark License Agreement and paid by a certificate holder or former certificate holder in order to remedy a false claim and to deter the certificate holder from harming the integrity of the FSC Certification Scheme.

Granted Rights: The right to use the FSC trademarks for FSC claims, as defined in FSC-STD-40-004, for on-product labeling on FSC-certified products and for promotional use worldwide as licensed and further regulated by via the FSC Trademark License Agreement.

Negligence: Failure to exercise reasonable care.

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED ORGANIZATIONS

2020

FSC Trademark License Agreement: The License Agreement for the FSC Certification Scheme signed by the certificate holder organization permitting use of the FSC trademarks ("licensed materials").

Overall annual turnover: Total revenue of an organization derived from the provision of goods and services, less trade discounts, VAT, and any other taxes based on this revenue (Dictionary of Business, Oxford University Press, 1996). The overall annual turnover refers to the most recently completed fiscal year and is not limited to forest products only.

Parties to the process: the organization, and all parties considered relevant by the FSC, the FSC Board of Directors, ASI and CBs.

1. Impact of false claims

- 1.1. A false claim causes severe damages to the credibility and reputation of the FSC certification system as well as to certificate holders that are in full compliance with the requirements for FSC certification. A false claim also has further negative impacts, damages the credibility and reputation of the FSC trademarks and misleads customers and consumers.

2. Applicable criteria

- 2.1. A financial penalty/compensation fee is determined by FSC in accordance with the seriousness (Clause 3.4) and the duration (Clause 3.5) of the specific false claim as well as with the economic capacity (Clause 3.6) of the blocked organization based on the annual turnover. Each of the aforementioned criteria is further scaled to reflect the seriousness and duration of each specific false claim. This calculation is used to ensure that the financial penalty/compensation fee is reasonable and to ensure fair treatment to blocked organizations who made false claims.

3. Calculation of the financial penalty/compensation fee

- 3.1. A standard flat rate for calculating the financial penalty/compensation fee is set at USD 60¹.
- 3.2. The financial penalty/compensation fee is calculated as follows:

$$\text{Financial penalty/compensation fee} = (\text{Flat rate} \times C_s \times C_d) \times C_c$$

- C_s = coefficient of seriousness as calculated per Clause 3.4
- C_d = coefficient of duration as calculated per Clause 3.5
- C_c = coefficient of capacity determined by the blocked organization's annual turnover as calculated per Clause 3.6

- 3.3. The financial penalty/compensation fee shall not exceed ten percent (10%) of the blocked organization's overall annual turnover.

¹ Subject to adjustment for inflation

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED
ORGANIZATIONS

2020

Basis for calculation

3.4 Coefficient of seriousness

<u>Market value of products affected by false claims (USD)</u>	<u>Coefficient of seriousness</u>
<u>Less than 2,500</u>	<u>1</u>
<u>2,500 - 5,000</u>	<u>2</u>
<u>5,001 - 12,500</u>	<u>3</u>

<u>12.501 - 25.000</u>	<u>4</u>
<u>25.001 - 50.000</u>	<u>5</u>
<u>50.001 - 100.000</u>	<u>6</u>
<u>100.001 - 300.000</u>	<u>7</u>
<u>300.001 - 500.000</u>	<u>8</u>
<u>500.001 - 700.000</u>	<u>9</u>
<u>700.001 - 1 Million</u>	<u>10</u>
<u>Any additional million</u>	<u>10+ (millions)</u>

Examples for the 10+ category

- a market value equal or above USD 2 million and less than USD 3 million corresponds to a coefficient of seriousness of 12 (= 10+2)
- a market value equal or above USD 15 million and less than USD 16 million corresponds to a coefficient of seriousness of 25 (= 10+15).

NOTE The exchange rate used for the calculation of the market value is the rate published by the German Federal Bank of the date of the false claim.

3 5. Coefficient of duration

3 5 1 The coefficient of duration is equal to the number of months in which the false claim was made.

Examples

- a false claim that lasted for 2 weeks corresponds to a coefficient of duration of 1.
- a false claim that lasted for 6 weeks corresponds to a coefficient of duration of 2
- a false claim that lasted for 11 months and 1 week corresponds to a coefficient of duration of 12.

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED ORGANIZATIONS

2020

3 6. Coefficient of capacity

<u>Coefficient of capacity</u>	<u>Turnover of the organization for forest products (in USD)²</u>		<u>Coefficient of capacity to</u>	<u>Turnover of the organization for forest products (in USD)</u>	
	<u>from</u>	<u>to</u>		<u>from</u>	<u>to</u>
<u>11</u>	<u>0</u>	<u>30,000</u>	<u>71</u>	<u>72,900,001</u>	<u>87,480,000</u>
<u>12</u>	<u>30,001</u>	<u>60,000</u>	<u>72</u>	<u>87,480,001</u>	<u>102,060,000</u>
<u>13</u>	<u>60,001</u>	<u>90,000</u>	<u>73</u>	<u>102,060,001</u>	<u>116,640,000</u>
<u>14</u>	<u>90,001</u>	<u>120,000</u>	<u>74</u>	<u>116,640,001</u>	<u>131,220,000</u>
<u>15</u>	<u>120,001</u>	<u>150,000</u>	<u>75</u>	<u>131,220,001</u>	<u>145,800,000</u>
<u>16</u>	<u>150,001</u>	<u>180,000</u>	<u>76</u>	<u>145,800,001</u>	<u>160,380,000</u>
<u>17</u>	<u>180,001</u>	<u>210,000</u>	<u>77</u>	<u>160,380,001</u>	<u>174,960,000</u>
<u>18</u>	<u>210,001</u>	<u>240,000</u>	<u>78</u>	<u>174,960,001</u>	<u>189,540,000</u>
<u>19</u>	<u>240,001</u>	<u>270,000</u>	<u>79</u>	<u>189,540,001</u>	<u>204,120,000</u>
<u>20</u>	<u>270,001</u>	<u>300,000</u>	<u>80</u>	<u>204,120,001</u>	<u>218,700,000</u>
<u>21</u>	<u>300,001</u>	<u>360,000</u>	<u>81</u>	<u>218,700,001</u>	<u>262,440,000</u>
<u>22</u>	<u>360,001</u>	<u>420,000</u>	<u>82</u>	<u>262,440,001</u>	<u>306,180,000</u>
<u>23</u>	<u>420,001</u>	<u>480,000</u>	<u>83</u>	<u>306,180,001</u>	<u>349,920,000</u>
<u>24</u>	<u>480,001</u>	<u>540,000</u>	<u>84</u>	<u>349,920,001</u>	<u>393,660,000</u>
<u>25</u>	<u>540,001</u>	<u>600,000</u>	<u>85</u>	<u>393,660,001</u>	<u>437,400,000</u>
<u>26</u>	<u>600,001</u>	<u>660,000</u>	<u>86</u>	<u>437,400,001</u>	<u>481,140,000</u>
<u>27</u>	<u>660,001</u>	<u>720,000</u>	<u>87</u>	<u>481,140,001</u>	<u>524,880,000</u>
<u>28</u>	<u>720,001</u>	<u>780,000</u>	<u>88</u>	<u>524,880,001</u>	<u>568,620,000</u>
<u>29</u>	<u>780,001</u>	<u>840,000</u>	<u>89</u>	<u>568,620,001</u>	<u>612,360,000</u>
<u>30</u>	<u>840,001</u>	<u>900,000</u>	<u>90</u>	<u>612,360,001</u>	<u>656,100,000</u>
<u>31</u>	<u>900,001</u>	<u>1,080,000</u>	<u>91</u>	<u>656,100,001</u>	<u>787,320,000</u>
<u>32</u>	<u>1,080,001</u>	<u>1,260,000</u>	<u>92</u>	<u>787,320,001</u>	<u>918,540,000</u>
<u>33</u>	<u>1,260,001</u>	<u>1,440,000</u>	<u>93</u>	<u>918,540,001</u>	<u>1,049,760,000</u>
<u>34</u>	<u>1,440,001</u>	<u>1,620,000</u>	<u>94</u>	<u>1,049,760,001</u>	<u>1,180,980,000</u>

² Refers to the definition of "annual turnover" in this document

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED ORGANIZATIONS

2020

<u>Coefficient of capacity</u>	<u>Turnover of the organization for forest products (in USD)²</u>		<u>Coefficient of capacity to</u>	<u>Turnover of the organization for forest products (in USD)</u>	
	<u>from</u>	<u>to</u>		<u>from</u>	<u>to</u>
<u>35</u>	<u>1,620,001</u>	<u>1,800,000</u>	<u>95</u>	<u>1,180,980,001</u>	<u>1,312,200,000</u>
<u>36</u>	<u>1,800,001</u>	<u>1,980,000</u>	<u>96</u>	<u>1,312,200,001</u>	<u>1,443,420,000</u>
<u>37</u>	<u>1,980,001</u>	<u>2,160,000</u>	<u>97</u>	<u>1,443,420,001</u>	<u>1,574,640,000</u>
<u>38</u>	<u>2,160,001</u>	<u>2,340,000</u>	<u>98</u>	<u>1,574,640,001</u>	<u>1,705,860,000</u>
<u>39</u>	<u>2,340,001</u>	<u>2,520,000</u>	<u>99</u>	<u>1,705,860,001</u>	<u>1,837,080,000</u>
<u>40</u>	<u>2,520,001</u>	<u>2,700,000</u>	<u>100</u>	<u>1,837,080,001</u>	<u>1,968,300,000</u>
<u>41</u>	<u>2,700,001</u>	<u>3,240,000</u>	<u>101</u>	<u>1,968,300,001</u>	<u>2,361,960,000</u>
<u>42</u>	<u>3,240,001</u>	<u>3,780,000</u>	<u>102</u>	<u>2,361,960,001</u>	<u>2,755,620,000</u>
<u>43</u>	<u>3,780,001</u>	<u>4,320,000</u>	<u>103</u>	<u>2,755,620,001</u>	<u>3,149,280,000</u>

<u>44</u>	<u>4,320,001</u>	<u>4,860,000</u>	<u>104</u>	<u>3,149,280,001</u>	<u>3,542,940,000</u>
<u>45</u>	<u>4,860,001</u>	<u>5,400,000</u>	<u>105</u>	<u>3,542,940,001</u>	<u>3,936,600,000</u>
<u>46</u>	<u>5,400,001</u>	<u>5,940,000</u>	<u>106</u>	<u>3,936,600,001</u>	<u>4,330,260,000</u>
<u>47</u>	<u>5,940,001</u>	<u>6,480,000</u>	<u>107</u>	<u>4,330,260,001</u>	<u>4,723,920,000</u>
<u>48</u>	<u>6,480,001</u>	<u>7,020,000</u>	<u>108</u>	<u>4,723,920,001</u>	<u>5,117,580,000</u>
<u>49</u>	<u>7,020,001</u>	<u>7,560,000</u>	<u>109</u>	<u>5,117,580,001</u>	<u>5,511,240,000</u>
<u>50</u>	<u>7,560,001</u>	<u>8,100,000</u>	<u>110</u>	<u>5,511,240,001</u>	<u>5,904,900,000</u>
<u>51</u>	<u>8,100,001</u>	<u>9,720,000</u>	<u>111</u>	<u>5,904,900,001</u>	<u>7,085,880,000</u>
<u>52</u>	<u>9,720,001</u>	<u>11,340,000</u>	<u>112</u>	<u>7,085,880,001</u>	<u>8,266,860,000</u>
<u>53</u>	<u>11,340,001</u>	<u>12,960,000</u>	<u>113</u>	<u>8,266,860,001</u>	<u>9,447,840,000</u>
<u>54</u>	<u>12,960,001</u>	<u>14,580,000</u>	<u>114</u>	<u>9,447,840,001</u>	<u>10,628,820,000</u>
<u>55</u>	<u>14,580,001</u>	<u>16,200,000</u>	<u>115</u>	<u>10,628,820,001</u>	<u>11,809,800,000</u>
<u>56</u>	<u>16,200,001</u>	<u>17,820,000</u>	<u>116</u>	<u>11,809,800,001</u>	<u>12,990,780,000</u>
<u>57</u>	<u>17,820,001</u>	<u>19,440,000</u>	<u>117</u>	<u>12,990,780,001</u>	<u>14,171,760,000</u>
<u>58</u>	<u>19,440,001</u>	<u>21,060,000</u>	<u>118</u>	<u>14,171,760,001</u>	<u>15,352,740,000</u>
<u>59</u>	<u>21,060,001</u>	<u>22,680,000</u>	<u>119</u>	<u>15,352,740,001</u>	<u>16,533,720,000</u>
<u>60</u>	<u>22,680,001</u>	<u>24,300,000</u>	<u>120</u>	<u>16,533,720,001</u>	<u>17,714,700,000</u>
<u>61</u>	<u>24,300,001</u>	<u>29,160,000</u>	<u>121</u>	<u>17,714,700,001</u>	<u>21,257,640,000</u>

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED ORGANIZATIONS

2020

<u>Coefficient of capacity</u>	<u>Turnover of the organization for forest products (in USD)²</u>		<u>Coefficient of capacity to</u>	<u>Turnover of the organization for forest products (in USD)</u>	
	<u>from</u>	<u>to</u>		<u>from</u>	<u>to</u>
<u>62</u>	<u>29,160,001</u>	<u>34,020,000</u>	<u>122</u>	<u>21,257,640,001</u>	<u>24,800,580,000</u>
<u>63</u>	<u>34,020,001</u>	<u>38,880,000</u>	<u>123</u>	<u>24,800,580,001</u>	<u>28,343,520,000</u>
<u>64</u>	<u>38,880,001</u>	<u>43,740,000</u>	<u>124</u>	<u>28,343,520,001</u>	<u>31,886,460,000</u>
<u>65</u>	<u>43,740,001</u>	<u>48,600,000</u>	<u>125</u>	<u>31,886,460,001</u>	<u>35,429,400,000</u>
<u>66</u>	<u>48,600,001</u>	<u>53,460,000</u>	<u>126</u>	<u>35,429,400,001</u>	<u>38,972,340,000</u>
<u>67</u>	<u>53,460,001</u>	<u>58,320,000</u>	<u>127</u>	<u>38,972,340,001</u>	<u>42,515,280,000</u>
<u>68</u>	<u>58,320,001</u>	<u>63,180,000</u>	<u>128</u>	<u>42,515,280,001</u>	<u>46,058,220,000</u>
<u>69</u>	<u>63,180,001</u>	<u>68,040,000</u>	<u>129</u>	<u>46,058,220,001</u>	<u>49,601,160,000</u>
<u>70</u>	<u>68,040,001</u>	<u>72,900,000</u>	<u>130</u>	<u>49,601,160,001</u>	<u>53,144,100,000</u>

- 3.7 If actual figures are not available to FSC to calculate the coefficients due to limited access to the blocked organization's transaction records and information, and the blocked organization is not cooperating with FSC, FSC will use the best available information to calculate the financial penalty/compensation fee.

4. Legal successors of the financial penalty/compensation fee

- 4 1 To prevent the blocked organization from circumventing the payment of financial penalty/compensation fee, FSC will take the following measures
- 4 1 1. If the blocked organization that was responsible for the false claim has meanwhile been dissolved, but another organization acts as its legal successor, then this legal successor shall be held liable to pay the financial penalty/compensation fee
- 4 1.2 If an individual(s) responsible for the false claims within the personnel or shareholder of the blocked organization, establishes a new organization which applies for FSC certification to avoid the payment financial penalty/compensation fee, FSC reserves the right to prohibit the new company from entering into the FSC Certification Scheme.

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED ORGANIZATIONS

2020

5. Duration of blocked status

5.1 The duration of the blocked status is linked to the amount of the compensation fee

5.2 The blocked organization who made a false claim shall be blocked for the period specified in the following table

<u>Compensation fee in USD</u>	<u>Duration of the certificate blocked status in months</u>
<u>Below 900</u>	<u>6</u>
<u>Between 901 - 1,800</u>	<u>12</u>
<u>Between 1,801 - 3,600</u>	<u>18</u>
<u>Between 3,600 - 7,200</u>	<u>24</u>
<u>Between 7,201 - 14,400</u>	<u>30</u>
<u>Between 14,401 - 28,800</u>	<u>36</u>
<u>Between 28,801 - 59,600</u>	<u>42</u>
<u>Between 59,601 - 119,200</u>	<u>48</u>
<u>Between 119,201 - 238,400</u>	<u>54</u>
<u>Above 238,400</u>	<u>60</u>

Calculation examples of the financial penalty/compensation fee

Example 1: Certificate holder "Arana" with annual turnover of 4,000,000 USD made false claims on products of a value of 600,000 USD during the period of 12 months

Financial penalty/compensation fee = (Flat rate x Cs x Cd) x Cc = (60 x 9 x 12) x 43 = 278,640 USD, or a duration of the certificate blocked status for 60 months.

Example 2: Certificate holder "Dovis" with annual turnover of 320,000 USD made false claims on products of a value of 30,000 USD during the period of 9 months

Financial penalty/compensation fee = (Flat rate x Cs x Cd) x Cc = (60 x 5 x 9) x 21 = 56,700 USD, or a duration of the certificate blocked status for 42 months.

Example 3: Certificate holder "Luvera" with annual turnover of 90,000 USD made false claims on products of a value of 30,000 USD during the period of 3 months

Financial penalty/compensation fee = (Flat rate x Cs x Cd) x Cc = (60 x 5 x 3) x 13 = 11,700 USD, or a duration of the certificate blocked status for 30 months

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED ORGANIZATIONS

2020

6. Contesting a blocked status and financial penalty/compensation fee

- 6 1 The blocked organization may submit evidence within four (4) calendar weeks after they have been informed of the decision taken by FSC in order to contest the blocked status and the financial penalty/compensation fee.
 - 6 2 All incoming and outgoing correspondence, including the final decisions and follow-up actions, will be filed in electronic format and/or hard copy, and maintained by FSC for a period of at least seven (7) years
 - 6 3 Parties to the process should refrain from commenting publicly on the review until FSC informs all parties to the process about the outcome of the submission
 - 6.4. Submitting evidence to contest a blocked status and financial penalty/compensation fee
 - 6 4 1 The blocked organization shall submit evidence by sending a submission to fscintegrity@fsc.org
 - 6 4 2. The submission shall conform with all of the following requirements
 - 6.4.2 1 contain the name and contact information of the blocked organization,
 - 6 4.2 2. be written in one of the official FSC languages (English or Spanish);
 - 6.4.2 3 specify the events and issues regarding the false claim;
 - 6 4.2.4. contain evidence contesting the false claim,
 - 6 4 2 5. have supporting documents
 - 6 4 3 Submissions not meeting the requirements listed in Clause 6 4 2 will not be processed.
 - 6 4 4 The blocked organization may use the FSC template (Annex 1) for submitting evidence to contest the blocked status and the financial penalty/compensation fee
- NOTE Documents submitted in other languages than the official FSC languages shall be translated by the blocked organization who provides the material.
- 6 4.5. The blocked organization may withdraw the submission at any point in time of the process, at their sole discretion.
 - 6.4 6 The lack of cooperation by the blocked organization may be considered as grounds to discontinue the review

6.5 Processing and evaluating the submitted evidence

6.5.1 The FSC Supply Chain Integrity Team (fscintegrity@fsc.org) and ASI are responsible for reviewing the evidence submitted according to the following process:

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED ORGANIZATIONS

2020

- a) acknowledge receipt of the submission within ten (10) working days of receipt of the evidence;
- b) review evidence related to the blocked organization and the false claim, and
- c) keep a record of the conversations, including date, time and a summary of issues

6.6 Final decision making by FSC

6.6.1. FSC will make a decision based on the information provided by the blocked organization and the review conducted by the FSC Supply Chain Integrity Team and ASI

6.6.2. FSC will communicate the outcome of the decision to the blocked organization and their certification body and all other certification bodies within thirty (30) calendar days

6.7. Rejecting the submission

6.7.1 If the submitted evidence does not support lifting the blocked status and of the financial penalty/compensation fee, then the submission is rejected. The notification of the rejection shall include an explanation of why the evidence did not support the lifting of the blocked status and of the financial penalty/compensation fee.

6.7.2 The blocked status of the blocked organization will remain unchanged until the conditions specified in the Advice Note (ADVICE-40- 004-18 *Addressing deliberate false claims*), the Procedure FSC- PRO-10-003 or/and the FSC Normative Framework are met

6.8 Reverse decision based on the submission

6.8.1 If the submitted evidence supports the lifting of the blocked status and of the financial penalty/compensation fee, then the blocked organization did not deliberately make false claims and FSC will:

- a) inform the certification body of the outcome of the process, and
- b) lift the suspension of the Granted Rights

6.8.2. Upon receipt of this information, the certification body shall immediately update the FSC database to change the certification status of the blocked organization from 'Suspended and Blocked' to 'Valid'

7. Appeals

7.1.1 Decisions made by FSC after the submissions process cannot be appealed

7.1.2 The procedure FSC-PRO-01-005 (Processing Appeals) does not apply to FSC decisions made in response to the submission process

FSC-PRO-10-003 V1-0 EN

CALCULATING FINANCIAL PENALTY/COMPENSATION FEE AND PROCESSING EVIDENCE FOR BLOCKED
ORGANIZATIONS

2020

**Annex 1 FSC Template for submitting evidence to contest blocked status and financial
penalty/compensation fee**

Information of the individual(s) or organization(s):

<u>Name of individual or organization</u>	
<u>Contact person (for organizations)</u>	
<u>Postal address.</u>	
<ul style="list-style-type: none"> • <u>Street + number</u> • <u>City</u> • <u>Area code</u> • <u>Country</u> 	
<u>Phone number</u>	
<u>Email address</u>	
<u>Website</u>	
<u>FSC member (if yes: international/ national, chamber, North/South)</u>	
<u>Date of submission</u>	
<u>Signature of legal representative</u>	

Information and evidence to be submitted to FSC:

<u>Issue</u>	<u>Information to support the false claim was not deliberate</u>
<u>Description of the issues and events that lead to the false claim</u>	<u>Evidence to support the false claim was not deliberate. Please provide an overview, a description and attach supporting documents</u>

Verbal forms for the expression of provisions

[Adapted from *ISO/IEC Directives Part 2 Rules for the structure and drafting of International Standards*]

"*shall*" indicates requirements strictly to be followed in order to conform with the standard

"*should*" indicates that among several possibilities one is recommended as particularly suitable, without mentioning or excluding others, or that a certain course of action is preferred but not necessarily required.

"*may*" indicates a course of action permissible within the limits of the document.

"*can*": is used for statements of possibility and capability, whether material, physical or causal